

REPORT TWO: January 2024

EU Law Tracker

A Report for the Constitution, Europe, External Affairs and Culture
Committee

Lisa Claire Whitten

EUROPEAN UNION LAW TRACKER

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Report No. 2 – January 2024

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1. INTRODUCTION

1.1 Research Purpose

This report is the second of a series of EU Law Tracker Reports commissioned by the Scottish Parliament Constitution, Europe, External Affairs and Culture Committee to support scrutiny of parliamentary committees into the commitment on the part of the Scottish Government (or SG) to continue to align with European Union (EU) law, as appropriate, following and notwithstanding the withdrawal of the United Kingdom (UK) from the EU.¹

The purpose of the EU Law Tracker Reports, and the research that underpins them, is to provide ongoing analysis of EU law and policy developments in areas that were (pre-Brexit) or would be (but for Brexit) devolved to Scotland and are therefore potentially in scope of the SG alignment commitment. The content of these Reports draws on and progresses earlier research that set a baseline for the possible scope and implications of the SG alignment commitment in EU law terms.² Building on the baseline research, this second EU Law Tracker report presents analysis of developments in EU legislation that are relevant to the SG alignment commitment and which have taken place since the first EU Law Tracker report was published; this report therefore covers developments between the end of August 2023 and the end of December 2023.

While the Report content is underpinned by systematic tracking of developments of relevant EU law instruments (listed in Annex 1), draft EU law instruments (listed in Annex 2), Scottish law instruments and UK law instruments, the presentation of research findings in this report is centred around a series of case studies (see Section 3). These case studies are used to demonstrate the different types of EU law change that can occur and which are relevant to the SG alignment commitment and how these can interact with Scots/UK law developments across a range of different settings. A full record of developments in (established/proposed) EU law instruments relevant to the SG alignment commitment is also included in the Report Annexes.

1.2 Commitment to Alignment in Scottish Law

Following UK withdrawal from the EU there is no longer a requirement for the UK to apply or follow EU law or policy. In Scotland, however, the Scottish Government indicated that “where appropriate” Scots Law would “keep up with future developments in EU law” either through new

¹ See The Scottish Parliament (2023) ‘EU Law Tracker’ *parliament.scot* Available: <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-constitution-europe-external-affairs-and-culture-committee/business-items/eu-law-tracker> (Accessed 14 June 2023)

² Whitten, L. C. (2022) ‘Alignment with European Union Law: A Report for the Constitution, Europe, External Affairs and Culture Committee’ *parliament.scot* Available: <https://www.parliament.scot/-/media/files/committees/constitution-europe-external-affairs-and-culture-committee/research-by-dr-whitten-on-alignment-with-eu-law.pdf> (Accessed 14 June 2023)

legislative initiatives or by making changes in EU-derived laws that continue to operate in Scotland which correspond to those being made at EU level.³

There are several different legislative options for securing the Scottish Government policy of alignment with EU law. Provisions could be introduced in primary legislation with the express purpose of aligning with an existing or (perhaps more likely) new EU law instrument. Alternatively, secondary legislation could be made in Scotland to give effect to the stated policy of EU alignment, where powers exist to do so.

Alongside the potential for normal legislative processes being used in pursuit of alignment with EU law and policy in Scotland, specific provisions were made in the *UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021* (hereafter the 'EU Continuity Act 2021' or '2021 Act') to empower Scottish Ministers to give effect to the stated policy to stay aligned with EU law where appropriate.⁴ While this report provides a high-level overview of all relevant developments in EU law and also in Scots Law, in setting out the domestic legal context, it focuses particularly on the powers granted by the EU Continuity Act 2021.

1.2.1 The Continuity Act and Keeping Pace Powers

The EU Continuity Act 2021 grants Scottish Ministers discretionary powers to make provisions that 'correspond' to EU law, by regulations (s1(1)). While there is no obligation on Scottish Ministers to exercise their 'keeping pace' powers, because these are linked to any EU act that 'has effect in EU law after IP completion day [i.e., 31 December 2020]', they are potentially very broad in scope. In effect, section 1 of the 2021 Act bestows discretionary powers to Ministers in Scotland to make regulations in any area of policy which previously or in future was/is covered by EU law and which is in the scope of devolved competence in Scotland, either now or in future.

There are a small number of restrictions on the otherwise broad 'keeping pace' powers. These restrictions are set out in section 3 of the EU Continuity Act 2021 and result in an inability to make regulations that: impose or increase taxation; make retrospective provisions; create a criminal offence; establish a Scottish public authority; remove protections on judicial independence; confer functions on public authorities not in-keeping with their establish purposes; or modify protected law acts, namely the Scotland Act 1998 or the Equality Act(s) of 2006 and 2010. Outside of this discrete list, the 'keeping pace' powers of Scottish Ministers under section 1(1) are limited (only) in accordance with devolved competence and the scope of current and/or future EU law.

³ The Scottish Government's stated aim in 'keeping pace' is to ensure "Scotland can then continue to benefit from developments in EU laws and standards" and thereby through the 'keeping pace' policy to "send a strong signal to the EU that Scotland continues to uphold the EU's core values" on the premise that this "could help to ease an independent Scotland's application for membership as an independent country" – Scottish Government (2020) 'Protecting Scotland, Renewing Scotland: The Government's Programme for Scotland 2020-2021' *gov.scot* Available: <https://www.gov.scot/publications/protecting-scotland-renewing-scotland-governments-programme-scotland-2020-2021/pages/9/> (Accessed 14 July 2023).

⁴ UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 asp 4 Available: <https://www.legislation.gov.uk/asp/2021/4/contents/enacted> (Accessed 24 July 2023)

Although section 1(1) powers are potentially very wide-ranging in terms of policy scope, they are also time limited. Under section 4 of the 2021 Act, the ‘keeping pace’ powers are due to end on 31 December 2026 so six years after UK withdrawal from the EU and five years after the Transition Period ended. The relevant period could however be extended up to 31 December 2030 if regulations to this effect are passed in the Scottish Parliament by affirmative procedure. If the Scottish Government wanted to further extend these powers to give effect to their EU law alignment commitment after 2030, new primary legislation would be necessary.

The open-ended nature of powers granted under section 1(1) notwithstanding, section 2 of the EU Continuity Act 2021 provides a lens through which those discretionary powers are to be read. According to section 2, the ‘purpose’ of keeping pace powers granted in section 1(1) is to ‘contribute towards maintaining and advancing standards in relation to’ the following areas:

Environmental Protection
Animal Health and Welfare
Plant Health
Equality, Non-Discrimination, and Human Rights
Social Protection

This list is important and ought to be read as a guide to the purpose intended by drafters of the broad regulation-making section 1(1) powers. Additionally, there is a ‘due regard’ requirement, introduced in section 2(2), that affirms such a reading in that Scottish Ministers exercising powers under section 1(1) are obligated to “have due regard to the purpose referred to in section [2](1)” where the five policy areas are listed. Efforts to monitor or scrutinise the extent to which the Scottish Government has exercised or fulfilled its alignment commitment ought therefore to account for EU and (to a lesser but important degree) UK policy developments in the areas listed in section 2(1) of the 2021 Act. The EU Law Tracker case studies set out in this report (see section 3), and the systematic analysis that underpins them (see Annex 1), accounts for relevant changes in all five of the section 2(1) 2021 Act policy areas.

Importantly, however, notwithstanding the significance of the purposive lens provided by section 2(1) of the EU Continuity Act 2021 for the exercise of ‘keeping pace’ powers granted under the section 1(2) of the same, it is also worth underlining that these do not comprehensively cover the potential scope of section 1(1) powers – this fact is demonstrated in both the policy case studies and the full record of relevant changes.

1.2.2 Scottish Government Reporting Commitments

Under section 10 of the EU Continuity Act 2021 the Scottish Government is obliged to provide annual reports detailing: how the ‘keeping pace’ powers have been used; how any use has contributed towards maintaining and advancing standards related to the five section 2(1) policy areas; any consideration of the use of the section 1(1) powers that has taken place; and/or how they intend to use the ‘keeping pace’ power in the next reporting period. To date, three such reports have been published; the first two reports stated that Scottish Ministers did not make use of the section 1(1) powers during the relevant reporting period, while the third and latest report detailed Scottish Ministers’ use of section 1(1) powers on one occasion, to keep pace with EU law changes related to the quality of water for human consumption (see section 2.2.1).

In response to Constitution Committee concerns that there is not sufficient transparency with regards to the Scottish Ministers’ decision-making process on EU alignment, the Scottish Government [committed to increasing the information provided to Parliament](#) and the public to understand how the alignment commitment is being applied. Ministers have agreed to provide additional annual reporting to sit alongside the existing Continuity Act reporting process, to provide information including—

- how alignment has been considered in respect of legislation made in the Scottish Parliament over the reporting year;
- an assessment of EU legislation made over the reporting year that may be relevant to the commitment to align; and
- where Scotland’s policy priorities in respect of the EU lie in the coming year.

The Constitution Committee subsequently [welcomed](#) the “significantly extended levels of reporting on the policy to align” from the Scottish Government. This EU Tracker report incorporates analysis of all relevant information published by the Scottish Government on its alignment policy, including that provided according to the new approach which has been fully implemented since September 2023.

1.3 Commitment to Alignment in EU Law Terms

A good starting point for mapping the policy scope of the Scottish Government’s alignment commitment is to consider any EU law instruments that were fully or partially within devolved competence in Scotland prior to the UK’s withdrawal from the EU. In doing so this section draws on findings from the previous Baseline Research Report which found that, on 31 December 2020, at least 243 instruments of EU law were potentially within the scope of the Scottish Government’s alignment commitment.⁵ Moreover that policy areas potentially in-scope extended beyond the five listed in section 2(1) of the 2021 Act to also include food standards, chemicals, economy and trade, police and judicial cooperation, public health, and transport.

Of the 243 initial instruments of relevant EU law, 128 are fully in Scottish Government competence and responsibility for 115 is ‘mixed’ between the UK government and devolved government in Scotland.

Table 1: Summary of the Potential Legislative Scope of the ‘Keeping Pace’ Power in EU Law Terms.

Policy Area	EU Instruments*	Competence	
		Mixed	Devolved
Environmental Protection	42	24	18
Animal Health and Welfare	46	10	36

⁵ Analysis is based on analysis of UKG Frameworks Analysis produced as part of the Common Frameworks process – for details see the Baseline Research Report (n2) and Cabinet Office (2021) ‘Frameworks Analysis 2021: Breakdown of areas previously governed by EU law that intersect with devolved competence in Scotland, Wales and Northern Ireland’, [gov.uk](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1031808/UK_Common_Frameworks_Analysis_2021.pdf) Available: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1031808/UK_Common_Frameworks_Analysis_2021.pdf (Accessed 1 October 2022).

Plant Health	17	3	14
Equality, Non-Discrimination, and Human Rights	7	1	6
Social Protection	4	4	0
Food Standards	30	27	3
Chemicals	7	4	3
Economy & Trade	6	5	1
Police & Judicial Cooperation	57	27	30
Public Health	15	3	12
Transport	12	7	5
		115	128
Total	243*		

*As of 31st December 2020, for changes since see Annex I.

Before considering the substance of changes that have taken place in EU law that are relevant to the Scottish Government’s alignment commitment, it is necessary to contextualise the kinds of changes documented in the EU Law Tracker by first setting out the main types of change that can occur as part of the ordinary legislative procedures of the EU.

EU law falls into three broad categories – primary, secondary, and tertiary – and different kinds of EU legislative instrument can be made or apply in each of these. Primary EU law is that contained in its treaties. The EU treaties lay down the EU’s objectives, the rules for its institutions, its decision-making procedures, and define the relationship between the EU and its Member States. Changes in primary EU law do not often take place because any amendments to the EU treaties need to be negotiated and agreed by all EU countries, then ratified by Member States according to their own constitutional requirements which, in some cases, involves holding referenda. Secondary EU law is passed to achieve the objectives and principles set out in the EU treaties. There are five kinds of secondary EU law instrument – regulations, directives, decisions, recommendations, and opinions – each of these has a different standing and different procedures associated with their development or amendment, these are summarised in Table 2.

The third and final category is EU tertiary law wherein there are two main types – delegated acts and implementing acts – both of these are legally binding. Similar to the way in which secondary legislation in the UK/Scotland can be made by government ministers according to powers granted them to do so in primary acts of UK/Scots Law, tertiary legislation in the EU can be adopted by the European Commission according to powers granted it to do so in a related instrument of secondary EU law (either a regulation, directive, or decision). The purpose of EU tertiary legislation is to set conditions or to define detailed measures for the implementation of a related ‘parent act’ of secondary EU law.

Table 2: Categories and Types of EU Legal Acts, and Procedures for Amendment

Category	Types	Legal Effect	Amendment Procedures
Primary	EU Treaties	Legally Binding	Negotiated by Heads of State and ratified by Member States (according to national constitutional requirements)
Secondary	Regulations	Binding	Passed by Ordinary/Special Legislative Procedures of the EU
	Directives	Binding (subject to national transposition)	
	Decisions	Binding	

	Recommendations	Non-Binding	
	Opinions	Non-Binding	
Tertiary	Implementing Acts	Binding	Passed by European Commission according to powers granted in acts of secondary EU law
	Delegated Acts	Binding	

A grounding in the different types of EU legislation and the way they interact is the essential backdrop against which to assess how the Scottish Government’s alignment commitment operates in practice. In this regard, the relationship between secondary and tertiary EU legislation is particularly pertinent. When the UK was an EU Member State, changes via tertiary EU law to secondary EU law applied in the UK automatically. Amendments of this nature are made very often in the course of ordinary EU legislative procedures. To demonstrate, in 2023, the EU passed 1178 implementing or delegated acts of tertiary EU law.⁶ Changes brought in via tertiary law acts are generally technical or procedural and they are always within the scope of the objectives of the ‘parent’ act of secondary law, nonetheless sometimes EU implementing law changes are substantive in policy terms and, as indicated in the examples included in the EU Law Tracker, many are also relevant to the Scottish Government alignment commitment.

1.4 Report Structure

This rest of this report is structured as follows.

Section Two provides a high-level overview of the immediate policy context against which the assessment of the exercise of the Scottish Government’s alignment commitment that follows ought to be understood. To this end Section Two first provides a summary of the 2024 European Commission Work Programme and highlights aspects of it that are most relevant due to their being (at least potentially) in scope of the alignment commitment. This is followed by an overview of relevant developments in Scottish Law including an account of Annual Reports made under section 10(1) of the 2021 Act regarding any Scottish Government use or consideration of use of its keeping pace powers. Finally, UK-wide developments that are or could be relevant to the alignment commitment are noted and discussed; this section includes analysis of the possible/anticipated implications of the *Retained EU Law (Revocation and Reform) Act 2023* for the SG alignment commitment.⁷

Section Three presents the main substance of this report. It sets out a series of policy case-studies of instances of divergence and/or alignment between EU law and Scots Law that have taken place during the reporting period of August 2023 and December 2023. The case studies are organised thematically according to the areas of policy impacted, including those five listed in section 2(1) of the EU Continuity Act 2021 to which any exercise of the keeping pace powers on the part of Ministers ought to have ‘due regard’.

⁶ Includes basic and amending delegated acts as well as basic and amending implementing acts. For detail see ‘Legal acts – statistics’ section on EUR-Lex (2024) ‘Legal acts – statistics’ *eur-lex.europa.eu* Available: <https://eur-lex.europa.eu/statistics/2022/legislative-acts-statistics.html> (Accessed 12 January 2024)

⁷ *Retained EU Law (Revocation and Reform) Act 2023* c. 28. Available: <https://www.legislation.gov.uk/ukpga/2023/28/enacted> (accessed 12 January 2024)

Section Four of this report presents a summary of the legal statistics and points of analyses that underpin the preceding policy case studies, and which are detailed in the EU Law Tracker attached/annexed to this report.

2. CONTEXT

2.1 Summary of European Commission Work Programme

In considering the relevance of proposals in the European Commission (or EC) Work Programme 2024 for the Scottish Government alignment commitment, this EU Law Tracker Report focuses on the 59 'Significant proposals and initiatives to rationalise reporting requirements' listed in Annex II and the 154 'Pending Proposals' set out in Annex III of the EC Work Programme for this year. The rationale for adopting such an approach is that the typical timeline for development of a new EU law act is longer than one year; this means that those proposals contained in the EC Work Programme 2024 that are still high-level and, at the time of its publication, were not yet detailed in a European Commission proposal are not likely to become EU law before the next edition of the EU Law Tracker Report (due in September 2024). To ensure the analysis in this report is comprehensive, any relevant EU proposals or initiatives set out elsewhere in the EC Work Programme have also been considered.

Results from a cross-reading of the EC Work Programme for 2024 with those EU laws which were pre-Brexit within Scottish competence, either in whole or in part, are detailed in Annex 2 of this Report. Based on this analysis, at least 30 of the 213 Significant/Priority Proposals for new EU laws would replace or make substantial revisions in areas of policy that are or could be in the scope of the Scottish Government alignment commitment with assessment of the latter being based on findings from the Common Frameworks process read together with the SG annual reports on alignment.

Examples of proposed new EU law instruments that may be in scope of the SG alignment commitment are included in the EU Law Tracker (see section 3.3) case studies set out in the third section of this report. A detailed record of the 30 EU proposals identified as relevant for the alignment commitment is provided in Annex 2 of this report.

2.1.1 *European Legislative and Electoral Cycle*

Elections to the European Parliament (EP) are scheduled to take place 6–9 June 2024. The last sitting of the EP in advance of these elections will be on 25 April; the newly elected EP will sit again on 16 July before rising for again for the August recess.⁸ While the EP will be dissolved prior to the election, the current European Commission continues to operate meaning that tertiary EU laws can still be made during and notwithstanding the EP election period.

The appointment of a new European Commission following and in view of the EP election results can take some time, however, the associated processes are designed to ensure a smooth transition and minimise the amount of time between the operation of the old and the new European Commission.

⁸ See European Parliament 2024 *europarl.europa.eu*. Available: <https://www.europarl.europa.eu/cmsdata/279634/calendar-2024.pdf> (accessed 25 February 2024).

Regarding currently draft EU laws, all plenary votes taken by the EP ahead of the elections on proposals for new EU instruments remain legally valid and continue into the agenda of the newly elected parliament. Incoming MEPs can therefore pick up files where they were and progress these to the relevant next stage in the decision-making process. Any legislation that has not reached the plenary stage (i.e., has only been considered by committees) before EP elections does not have legal validity and therefore falls. There is, however, a provision in the Rules of Procedure of the Parliament that allows for any files that would otherwise lapse to be carried forward into the new term if the EP President and leaders of the EP political groupings are in favour of doing so.

From the perspective of Scotland and the SG alignment commitment perhaps the most important implication of the upcoming EP election is the possibility and probability of relative consistency between the current cadre of proposals for updating existing and/or introducing new EU laws, and those likely to be included in the EC Work Programme of 2025.

2.2 Summary of Scottish Law Developments

2.2.1 Developments Explicitly Related to the Alignment Commitment

Since the EU Continuity Act 2021 became law, the Scottish Government have published three Annual Reports, as required under section 10 of the legislation, which detail instances of the use of section 1(1) powers as well as considerations of its use, past and future.

A draft of the first report was published in October 2021 with a final version following in May 2022.⁹ This first Annual Report stated that the section 1(1) keeping pace power had not been used during the reporting period nor had there been any consideration given to its use during the reporting period; moreover, Scottish Ministers, at the time of reporting, had no plans to make use of the power during the upcoming reporting period.

A draft of the second report was published in October 2022 with a final version following in June 2023.¹⁰ This second Annual Report stated again that the section 1(1) keeping pace power had not been used during the reporting period, however, consideration had been given to its use in relation to certain measures adopted under the EU Energy Performance and Buildings Directive (see 2018/844/EU) regarding, primarily, the installation of Electric Vehicle (EV) charge points in car parks associated with new and existing buildings. The Scottish Government concluded that

⁹ Scottish Government (2022) 'Report by the Scottish Ministers in Exercise of the Power in Section 1(1) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 for the reporting period 29 March 2021 – 31 August 2021 and the intended future use of the power under section 1(1) in the upcoming reporting period' 2022, May 10. SG/2022/90. Available: <https://www.parliament.scot/-/media/files/committees/constitution-europe-external-affairs-and-culture-committee/correspondence/2022/eu-alignment-continuity-act--6-may.pdf> (Accessed 25 July 2023)

¹⁰ Scottish Government (2023b) 'Report by the Scottish Ministers in Exercise of the Power in Section 1(1) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 for the Reporting Period 1 September 2021 – 31 August 2022 and the intended future use of the power under section 1(1) in the upcoming reporting period 1 September 2022 – 31 August 2023' 2023, June 28. SG/2023/137. Available: <https://www.parliament.scot/-/media/files/committees/constitution-europe-external-affairs-and-culture-committee/correspondence/2023/annual-report-21-22.pdf> (Accessed 25 July 2023)

“a number of factors ...did not support implementation” of the measures “at this time” but resolved to “monitor the growth of EV charging” at specific locations carefully over the next few years with a view to potentially introducing ‘keeping pace’ legislation “at a later date”.¹¹ Accounting for any intention to use the keeping pace powers in the upcoming reporting period, the second Annual Report also stated that the Scottish Government intends to make provision “in late 2022” under section 1(1) of the 2021 Act to amend the Public Water Supplies (Scotland) Regulations 2014 so to implement certain requirements of the recast EU law version of the Drinking Water Directive ((EU) 2020/2184), replacing Directive 98/83/EC) – this case is included in the EU Law Tracker below (see section 3).

A draft of the third report was published in October 2023, a final version was published in February 2024.¹² This (draft) third Annual Report stated that the section 1(1) keeping pace power had been used once during the reporting period (in this case from September 2022 to August 2023) with the introduction of the *Public Water Supplies (Scotland) Amendment Regulations 2022* which “partially aligns” with the EU Drinking Water Directive 2022/2184 (Recast) on the quality of water for human consumption.¹³ The third Annual Report states that use of the Continuity Act powers in this instance allowed the Scottish Government to align with drinking water standards set by the World Health Organisation and thereby helped protect against harms to human health caused by per-fluoroalkyl substances (PFAS) and endocrine disrupters as well as, through catchment measures to address erosion and restrictions on artificial pollutants, helped contribute to environmental protection (as defined in section 2(1) of the 2021 Act).¹⁴ Regarding consideration of use of the keeping pace powers, the third Annual Report noted that Scottish Ministers had not considered “any further uses of the Continuity Act as the method by which to align within the reporting period”, however, information was provided on the SG’s assessment of the relevance or otherwise of the alignment policy to 32 instruments of Scottish secondary legislation passed during the reporting period, and since the “change in information sharing requirements regarding EU alignment between September and October 2023”.¹⁵ None of the instruments included in the record of the SG assessment were considered to have direct impact on the alignment policy; regarding one instrument – *The Carer’s Assistance (Carer Support Payment) (Consequential and Miscellaneous Amendments and Transitional Provision) (Scotland) Regulations 2023* – it was noted that “EU regulations on social security coordination” had been “taken into account in the design of these regulations”.¹⁶ Subsequent Annual Reports will provide similar information – assessment of the relevance of non-Continuity Act Scottish

¹¹ *Ibid.*

¹² Scottish Government (2023c) ‘Report by the Scottish Ministers in Exercise of the Power in Section 1(1) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 for the Reporting Period 1 September 2022 – 31 August 2023 and the intended future use of the power under section 1(1) in the upcoming reporting period 1 September 2023 – 31 August 2024’ 2024, February 6. SG/2024/23 Available: <https://www.parliament.scot/-/media/files/committees/constitution-europe-external-affairs-and-culture-committee/eu-alignment--continuity-act--finalised-annual-report-2023--16-jan-24.pdf> (Accessed 19 February 2024)

¹³ The *Public Water Supplies (Scotland) Amendment Regulations 2022* SSI 2022/387. Available: <https://www.legislation.gov.uk/ssi/2022/387/contents/made> (Accessed 12 January 2024); for the EU Drinking Water Directive (Recast) see Directive (EU) 2020/2184 in OJ L435, 23.12.2020 p.1-62. Available: <https://eur-lex.europa.eu/eli/dir/2020/2184/oj> (Accessed 12 January 2024)

¹⁴ Scottish Government (2023c) ‘Report by Scottish Ministers’ (n.11): para. 8

¹⁵ *Ibid.* Annex B.

¹⁶ *Ibid.* See also: ‘Policy Note: The Carer’s Assistance (Carer Support Payment) (Consequential and Miscellaneous Amendments and Transitional Provision) (Scotland) Regulations 2023’ SSI 2023/258. *legislation.gov.uk* Available: https://www.legislation.gov.uk/ssi/2023/258/pdfs/ssipn_20230258_en_001.pdf (Accessed 12 January 2024).

legislation – covering the whole reporting period. Regarding Scottish Ministers’ intention to use the section 1(1) powers in the upcoming reporting period, the third Annual Report outlined a commitment to consult on “proposals for amending *The Town and Country Planning (Scotland) Act 1997* in relation to unauthorised development and the ability to take enforcement action after that time has expired for certain development” – if enacted, this change would be in response to recommendations from the Aarhus Convention Compliance Committee regarding environmental obligations.¹⁷

The latest SG Annual Report included an additional section on ‘EU Law Relevant to Devolved Competence or Having a Devolved Impact’ which provided a list of EU legislation, in progress at the start of “formalised monitoring in July 2023”, and which the SG view as “potentially within devolved competence or having devolved impact”.¹⁸ The stated purpose of including this section is to assist the CEEAC Committee with its deliberations by giving an understanding of the areas of EU legislation the SG is initially considering in scope – the content of the relevant Annex (C) is not exhaustive. Entries listed as not applicable to the alignment commitment are stated to be “either non legislative or where they are in an early stage and cannot yet be assessed” – on this basis the list and assessments provided by the SG can usefully be considered as a snapshot of the SG’s analysis of the situation at the time of the publication of that Annual Report.¹⁹

2.2.2 Developments not Explicitly Related to the Alignment Commitment

In addition to exercising the specific ‘keeping pace’ powers bestowed by the EU (Continuity) Act 2021 the Scottish Government can also opt to align with EU law through provisions in acts of primary law and/or secondary law not made under the 2021 Act; the revised approach of the SG in the 2021 Act Annual Reports reflects this. In order to comprehensively assess the alignment commitment in practice it is therefore useful to review legislative developments in Scotland that are outside those specifically related to the 2021 Act keeping pace powers.

Focusing first on developments in primary law, in the period covered by this EU Law Tracker the Scottish Government have passed two new primary acts of law. Of these neither are explicitly linked to the alignment commitment, but both can be said to be indirectly related to aspects of EU law that are (at least potentially) in scope of the alignment commitment and/or to the implications of UK withdrawal from the EU more generally.

The analysis presented in Table 3 is based on information contained in Explanatory Notes of the relevant Bill/Act as well as Policy Notes published by the Scottish Government alongside the draft legislation. In assessing relevance, a conservative approach has been adopted such that legislation is not highlighted if there is no explicit link between the provisions of the primary act and EU law developments; the nature of any non-explicit link is detailed. The information set out below ought to be taken as a guide rather than used as a necessarily authoritative record.

Table 3: New Primary Acts of Scottish Law (August 2023 – January 2024)

¹⁷ *Ibid.* para. 10-11.

¹⁸ *Ibid.* Annex C.

¹⁹ *Ibid.*

Acts of the Scottish Parliament	Year Ref	Relationship to EU Law in Scope of Alignment*
2024		
United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act	2024 asp 1	Indirectly related. UK withdrawal from the EU is cited as a contextual reason for introducing the Act. The Policy note states that "...the United Kingdom's withdrawal from the European Union underline[s] the importance of human rights being built into the fabric of society." ²⁰
2023		
Patient Safety Commissioner for Scotland Act	2023 asp 6	Indirectly related. The office of Commissioner created by the Act is required to comply with UK GDPR – if not for Brexit EU GDPR would have been engaged. ²¹ It is also noteworthy that aspects of the new Commissioner responsibilities – i.e. regulation of medicines and medical devices – were previously subject to EU law in Scotland. ²²

*Assessed on the basis of a cross-reading of Primary Acts explanatory notes and relevant EU law instruments that are potentially in scope of the Scottish Government's alignment commitment.

As Table 3 indicates, where Scots law initiatives are related to EU laws in scope of the alignment commitment the link tends to be due to an overlap between policy initiatives being pursued in Scotland and the established scope of EU law. Due to differences in competence between the EU and the Scottish Government instances of overlap between legislative initiatives pursued at both levels does not necessarily indicate active alignment or divergence. Relevant stakeholders, including parliamentary committees, may opt to further investigate instances of overlap identified in Table 3 for the purpose of scrutinising the Scottish Government alignment commitment.

As the analysis above indicates during the research period for this EU Law Tracker Report – based on official descriptions – no primary act of law passed in Scotland has been used to uphold the SG alignment commitment. This finding does not however preclude future use of primary law as a mechanism for fulfilling the SG commitment to align. Indeed, at least one of the Bills currently before the Scottish Parliament – the Circular Economy (Scotland) Bill – is intended to “maintain alignment with the direction of EU policy” by enabling Ministers in Scotland to set statutory circular economy targets by regulation (see Circular Economy (Scotland) Bill²³ and its

²⁰ See *United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill: Policy Memorandum* (2020) para. 5 Available: <https://www.parliament.scot/-/media/files/legislation/bills/s5-bills/united-nations-convention-on-the-rights-of-the-child-incorporation-scotland-bill/introduced/policy-memorandum-united-nations-convention-on-the-rights-of-the-child-scotland-bill.pdf> (Accessed 12 January 2024)

²¹ See *Patient Safety Commissioner for Scotland Bill: Explanatory Notes* (2022) para. 96 Available: <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/patient-safety-commissioner-for-scotland-bill/introduced/explanatory-notes-accessible.pdf> (Accessed 12 January 2024)

²² Examples include: Regulation (EU) 2017/745 on medical devices; Regulation (EU) 2017/746 on in vitro diagnostic medical devices; and Regulation (EU) No 1901/2006 on medicinal products for paediatric use; Directive 2001/83/EC on the Community code relating to medicinal products for human use.

²³ Circular Economy (Scotland) Bill [AS INTRODUCED] 2023, June 13 *parliament.scot* Available: <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/circular-economy-scotland-bill/introduced/bill-as-introduced.pdf> (Accessed 10 September 2023): section 6(3).

accompanying Policy Memorandum²⁴). Future EU Law Tracker reports will continue to monitor changes in Scottish primary law with a view to tracking if/how the alignment policy is upheld via this mechanism.

Another important mechanism in upholding the alignment commitment is secondary legislation. As well as providing information on the relevance of the alignment policy to new Bills and LCMs, under its new approach to reporting, the SG have committed to provide in Policy Notes accompanying SSIs a subheading on the 'EU Alignment Consideration' granted the relevant instrument.

In the period covered by this Report, 177 Scottish Statutory Instruments have been made. Of the total number, 104 related to temporary prohibitions on traffic or temporary speed restrictions on specific roads in Scotland; because SSIs of this nature are not relevant to the SG alignment commitment, they have been excluded from the otherwise comprehensive record set out in Table 4 below. Of the 73 relevant instruments made during the reporting period, 26 can be said to be either indirectly or directly relevant to the keeping pace policy. This assessment is based on information contained in policy notes accompanying the legislation read together with the comprehensive EU Law Tracker annexed to this Report. Where available, SG statements on the applicability or otherwise of the keeping pace policy are set out – notably, not all policy notes contain this information. As indicated in Table 4, of the 73 relevant instruments, the accompanying policy notes for 19 SSIs did not contain information on the keeping pace policy; the 104 SSIs regarding temporary restrictions on road use also did not contain information on EU alignment consideration. Most of the 19 SSIs for which the SG have not included an explicit statement in the policy note regarding the relationship of the given instrument to the alignment policy are unambiguously unrelated to it; for some, however, the situation is less clear. Moreover, there are also examples where a Policy Note does contain a statement regarding EU alignment consideration in which the SG proposes the instrument to be 'not relevant' but where a case could nonetheless be made that the given instrument makes provisions which (directly or indirectly) are related to or impact upon the degree of alignment between Scottish law and EU law; there are only however a small number of examples of this kind.

An example of an SSI for which the [policy note](#) does not contain reference to EU alignment consideration is *The Producer Responsibility Obligations (Packaging Waste) Amendment (Scotland) Regulations* (SSI [2023/338](#)) – the purpose of this instrument is to amend the Producer Responsibility Obligations Regulations 2007 to set targets for recycling packaging waste that producers must meet for 2024. Those 2007 Regulations implemented Council Directive 94/62/EC on packaging and packaging waste while the UK was a member of the EU; the purpose of this new instrument (SSI 2023/338) is to set new targets for 2024 in view of a UK government decision to defer the introduction of an Extended Producer Responsibility scheme for packaging until 2025. While the policy note contains no statement on EU alignment consideration, this SSI relates to an area of legislation and policy that previously followed from and reflected Scotland's EU membership; since November 2022, the EU has been considering [proposals](#) to revise its legislation on packaging and packaging waste, if adopted this would see the Council Directive

²⁴ Circular Economy (Scotland) Bill Policy Memorandum 2023, June 13 *parliament.scot* Available: <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/circular-economy-scotland-bill/introduced/policy-memorandum.pdf> (Accessed 10 September 2023): para. 44.

(94/62/EC) for which the 2007 Regulations made provision, be repealed by the EU. Against this backdrop it is unclear why the policy note accompanying the new Producer Responsibility Obligations does not contain a statement regarding EU alignment consideration.

An example of an SSI for which the policy note states its provisions are ‘not relevant’ to the alignment policy but for which a case could be made regarding its relevance is *The Plant Health (Fees) (Forestry) (Scotland) (Amendment) Regulations* (SSI 2023/377) which makes provision for a derogation for fees otherwise payable on sanitary and phytosanitary (SPS) certifications on movements of plants from the UK in respect of Scotland to the UK in respect of Northern Ireland to be extended from 31 December 2023 to 30 June 2025. While this pertains to the movement of goods within the UK territory and does not therefore relate directly to alignment between EU law and Scottish law it is also the case that the reason SPS certification fees are (absent the derogation) payable on GB–NI movements of plants is that NI remains fully aligned with EU law on plants and Scotland does not. Whether or not, therefore, this SSI does or does not relate to the EU alignment commitment depends somewhat on what threshold is being used to determine relevance or lack thereof; the Scottish Government measure for determining relevance of any given legislative provision to the alignment policy is an issue that may warrant further inquiry on the part of the Scottish Parliament.

Table 4: New Secondary Acts of Scottish Law (August 2023 – January 2024)**

Acts of the Scottish Parliament	Year Ref	Relationship to EU Law in Scope of Alignment
2024		
The Wine (Miscellaneous Amendment) (Scotland) Regulations*	2024 No. 11	Indirectly Relevant Instrument amends Scots Law versions of Commission Delegated Regulations (EU) 2019/33 and 2019/934 both of which supplement Regulation (EU) No 1308/2013 and concern the regulation of wine products and production – this SSI makes a range of technical changes including requirements for use of the term “ice wine”.
The Council Tax Dwellings and Part Residential Subjects) (Scotland) Amendment Regulations	2024 No. 10	Not Relevant
The Social Security Information-Sharing (Scotland) Amendment Regulations	2024 No. 8	Not Relevant
The Sea Fish (Prohibition on Fishing) (Firth of Clyde) Order	2024 No. 6	Directly Relevant Order prohibits fishing in certain areas of the Firth of Clyde for certain months of the year to protect cod stocks during spawning season. The Policy Note states that this instrument “supports and maintains alignment with the EU’s principles of environmental sustainability and fisheries management. Spatial closures are commonly used in the EU to protect juvenile and spawning fish. EU vessels are not impacted by this closure as it applies inside Scottish territorial waters”.
The Non-Domestic Rates (Transitional Relief) (Scotland) Regulations	2024 No. 5	Not Relevant

The Non-Domestic Rates (Levying and Miscellaneous Amendment) (Scotland) Regulations*	2024 No. 4	Not Relevant
The Non-Domestic Rate (Scotland) Order	2024 No. 3	Not Relevant
The Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (Commencement No. 6) Regulations	2024 No. 1	Not Relevant
2023		
The Importation of Animals and Related Products (Miscellaneous Amendment and Revocation) (Scotland) Order	2023 No. 391	Stated as Not Relevant. Instrument amends or revokes several orders having effect under the Animal Health Act 1981 which prohibit importation of animals or animal products without a licence. Relevant changes are made to coincide with REUL Act 2023 and the change of status of (previously) retained EU law – the amendments and revocations introduced by this instrument are technical in nature.
The Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations	2023 No. 389	Not Relevant
The Quality Meat Scotland (Amendment) Order	2023 No. 378	Not Relevant
The Plant Health (Fees) (Forestry) (Scotland) (Amendment) Regulations	2023 No. 377	Stated as Not Relevant This instrument extends a derogation for fees otherwise payable for phytosanitary certification fees on movement of plant exports from GB(Scotland) to NI – exemption is extended from 31 Dec 2023 to 30 June 2025 – and is one aspect of the UKG 'Movement Assistance Scheme (MAS) which has been extended overall to June 2025. The reason phytosanitary certification fees are (absent the derogation) payable on GB-NI movement of plants is due to NI alignment with EU law.
The International Organisations (Immunities and Privileges) (Scotland) Amendment (No. 2) Order	2023 No. 376	Not Relevant
The Equality Act 2010 (Specific Duties) (Use of Member Information) (Scotland) Revocation Regulations	2023 No. 375	Not Relevant
The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations	2023 No. 374	Indirectly Relevant Policy note states: "This SSI is not directly relevant to the Scottish Government's policy to maintain alignment with the EU, since the SSI is purely consequential and does not make any substantive changes to the law." While not making substantive changes, it is also the case that this SSI is related to the REUL Act which effectively lowers the status of (previously) retained EU law (now assimilated law thus making it easier to make changes in that same law which diverge from what still applies in the EU. The Policy Note also states SG opposition to the REUL Bill and commitment to challenge UKG attempts to 'use the REUL Act to legislate for lower standards'.
The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations	2023 No. 373	Not Relevant
	2023 No. 372	

The Conservation of Salmon (Scotland) Amendment Regulations		Directly Relevant Policy Note states that this Regulation "...aligns with the EU Habitats Directive by continuing to prohibit the retention of Atlantic salmon caught in any coastal waters in a salmon fishery district and in specified areas of inland waters. This maintains and advances the high standards that Scotland shares with the EU on environmental protection." ²⁵
The Welfare Foods (Best Start Foods) (Scotland) Amendment Regulations	2023 No. 371	Not Relevant
The Bovine Semen (Scotland) Amendment Regulations	2023 No. 370	Indirectly Relevant Policy Note states that this "instrument is primarily concerned with changes to the regime under the 2007 Regulations regarding bovine semen collected and processed for domestic trade, which is not regulated by EU law. The current law of the European Union regarding the collection, processing, and storage of bovine semen, found in Commission Delegated Regulation (EU) 2020/686, sets out rules regarding trade between member states of the European Union. // Where the instrument makes changes to rules relevant to bovine semen collected and processed for trade with member states of the European Union, they are minor in nature and are consistent with Regulation (EU) 2020/686. Otherwise, the instrument is not relevant to the Scottish Government's policy to maintain alignment with the law of the European Union."
The Firefighters' Pension Scheme (Scotland) Amendment Regulations	2023 No. 369	Not Relevant
The Bus Services Improvement Partnerships and Local Services Franchises (Provision of Information) (Scotland) Regulations	2023 No. 368	Not Relevant
The Meat Preparations (Import Conditions) (Scotland) Amendment Regulations	2023 No. 367	Stated as Not Relevant The purpose of this instrument is to extend a UK derogation to the retained/assimilated version of Commission Decision 2000/572 which sets out import conditions, made under retained/assimilated version of Council Directive 2002/99/EC (Article 8(4)). A previous SSI (<i>The Animals Food and Feed (EU Exit) (Scotland) (Amendment) Regulations 2020</i>) introduced a derogation to Commission Decision 2000/572 such that fresh meat preparations could be imported to Scotland from EEA states, the Faroe Islands, Greenland, and Switzerland, without being frozen (as otherwise required under the EU law) – the original derogation was due to expire in 2021 but was subsequently extended, this SSI extends it again until 29 April 2024. The Policy Note nonetheless states that the instrument is "not relevant to the Scottish Government's policy to maintain alignment with the EU because it concerns transitional measures regarding sanitary controls on goods entering Great Britain from the EEA following Great Britain no longer being part of the EU's internal market. These measures will not create any barriers to re-entry to the European Union".
The Prisons and Young Offenders Institutions (Scotland) Amendment Rules	2023 No. 366	Not Relevant

²⁵ See: https://www.legislation.gov.uk/ssi/2023/372/pdfs/ssign_20230372_en_001.pdf (Accessed 14 January 2024)

The Gender Recognition (Disclosure of Information) (Scotland) Order	2023 No. 364	Not Relevant
The Colleges of Further Education and Regional Strategic Bodies (Membership of Boards) (Scotland) Order*	2023 No. 363	Not Relevant
The Good Food Nation (Scotland) Act 2022 (Commencement No. 1) Amendment Regulations	2023 No. 362	Not Relevant
The Avian Influenza and Influenza of Avian Origin in Mammals (Scotland) Amendment Order	2023 No. 361	<p>Directly Relevant</p> <p>The primary objective of this instrument is stated "to allow Scottish Ministers to apply proportionate disease control measures in response to the declaration of HPAI infection at premises of backyard poultry flocks..." regarding EU alignment, the Policy Note states that "Commission Delegated Regulation (EU) 2020/687 in relation to the rules for the prevention and control of certain listed diseases... is relevant to the instrument" SSI 2023/361. Moreover that "amendments made by this instrument will result in closer alignment with the EU Regulation, so ensuring the maintenance and advancement of the standards which Scotland shares with the EU. Any divergence from the EU position will not impact on the maintenance of high standards of disease control, and consequently will not impact on the export of poultry and eggs to the EU." The Policy Note also states that amendments made by the instrument 'do not create any barriers to an independent Scotland's potential accession to the EU'.</p>
The Coronavirus (Recovery and Reform) (Scotland) Act 2022 (Extension and Expiry of Temporary Justice Measures) Regulations	2023 No. 360	Not Relevant
The Heat Networks (Supply Targets) (Scotland) Regulations	2023 No. 358	<p>Directly Relevant</p> <p>The Policy Note states that: "The European Union (EU) Energy Efficiency Directive (Recast) 2021, which is still undergoing the EU parliamentary process, currently sets out that Member States should promote and facilitate deployment of efficient district heating. The setting of a further target for heat network deployment in Scotland through this SSI will indirectly contribute to the promotion of district heating and is therefore in line with emerging EU policy. However the Scottish Government's direct promotion and facilitation of these systems is being pursued under a range of other ongoing and proposed policies and programmes."</p>
The Budget (Scotland) Act 2023 Amendment Regulations*	2023 No. 357	Not Relevant
The Mental Health (National Secure Adolescent Inpatient Service: Miscellaneous Amendments) (Scotland) Regulations	2023 No. 356	Not Relevant
The Transport (Scotland) Act 2019 Amendment Regulations	2023 No. 347	Not Relevant
The Disability Assistance (Miscellaneous Amendment) (Scotland) Regulations	2023 No. 346	Not Relevant

The Transport (Scotland) Act 2019 (Commencement No. 7) Amendment Regulations*	2023 No. 342	Not Relevant
The Spring Traps Approval (Scotland) Amendment Order	2023 No. 340	<p>Directly Relevant</p> <p>The Policy Notes states that: "Under the Agreement on International Human Trapping Standards (AIHTS), to which the European Union is a signatory, it is a requirement for trappers to use AIHTS compliant traps for the taking and killing of stoats. AIHTS was implemented in Scotland in 2019 which included adding a list of AIHTS approved traps to the Spring Traps Approval (Scotland) Order 2011. This instrument amends the list of approved traps to include the addition of the Quill Trap for the taking and killing of stoats, which complies with the AIHTS."</p>
The Feed Additives (Authorisations) (Scotland) Regulations	2023 No. 339	<p>Directly Relevant</p> <p>The Policy Note states that: "All thirteen feed additives [approved for use/continued use by this instrument] have been authorised for use in the EU. These feed additives have already been approved for use in Northern Ireland (NI), under the Windsor Framework arrangements. Twelve of the additives align with relevant EU law, there is no divergence.</p> <p>The feed additive 3-NOP has been authorized in NI/EU in feed for dairy cows and cows for reproduction, whereas the authorisation in GB is for all ruminants for milk production and reproduction. Based on the studies and evidence provided by the applicant, EFSA concluded that 3-NOP was safe for dairy cows and cows for reproduction but could not extrapolate the margin of safety to all ruminants. Based on further evidence and data requested by the Advisory Committee on Animal Feedingstuffs (ACAF) from the applicant, ACAF could establish a margin of safety and therefore concluded it was safe at the intended inclusion rates for all ruminants. It is unclear whether EFSA received the same further evidence and data from the applicant that was available to ACAF before reaching its conclusion.</p> <p>Aligning with relevant EU policy maintains and advances fair trade, competition, and access to EU markets for industry and agricultural services."</p>
The Food (Scotland) Act 2015 (Compliance Notices) Amendment Regulations	2023 No. 337	<p>Indirectly Relevant</p> <p>Instrument applies to an area of policy – regulation of food and novel foods – that is relevant to the SG alignment commitment but the Policy Note states that because the "instrument concerns enforcement measures" it "is not relevant to the Scottish Government's policy to maintain alignment with the EU."</p>
The Producer Responsibility Obligations (Packaging Waste) Amendment (Scotland) Regulations*	2023 No. 336	<p>Indirectly Relevant</p> <p>This instrument amends <i>The Producer Responsibility Obligations (Packaging Waste) Regulations 2007</i> (SI 2007/871) which implemented EU law obligations arising from Council Directive 94/62/EC on packaging and packaging waste, prior to Brexit. This new instrument sets recycling targets for obligated producers to meet in 2024 in view of the UKG decision (on 25 July 2023) to defer the introduction of an Extended Producer Responsibility scheme for packaging until 2025.</p> <p>The Policy Note does not mention SG alignment commitment. In November 2022 the European Commission published a proposal to revise its law on packaging and packaging waste – this is still undergoing EU legislative processes.²⁶</p>

²⁶ '2022/0396(COD) Packaging and Packaging Waste *European Parliament* See: [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2022/0396\(COD\)](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2022/0396(COD)) (Accessed 14 January 2024)

The Fly-Tipping (Fixed Penalty) (Scotland) Order	2023 No. 335	Indirectly Relevant Policy Note states: This instrument is not directly related to the SG's policy to maintain alignment with the EU but is in-keeping with the general principles of Directive 2008/98/EC of the European Parliament and of the Council on waste, including the protection of the environment by preventing or reducing the adverse impacts of waste generation and management."
The Deposit and Return Scheme for Scotland (Miscellaneous Amendment) Regulations 2023*	2023 No. 334	Indirectly Relevant EU legislates in the area of policy effected by this instrument (e.g., EU Single Use Plastics Directive and EU Packaging Waste Directive) – the Policy Note does not however contain a statement regarding the relevance or otherwise of this instrument to the alignment commitment. The primary purpose of the instrument is to defer the date for the full implementation of Scotland's Deposit and Return Scheme until 1 October 2025 to match that chosen by the UKG.
Act of Adjournment (Criminal Procedure Rules 1996 Amendment) (Miscellaneous)*	2023 No. 333	Not Relevant
The Deer (Firearms etc.) (Scotland) Amendment Order*	2023 No. 332	Indirectly Relevant EU law regulates the means and manner in which animals can be killed (Council Regulation (EC) No. 1099/2009). This instrument introduces changes to the <i>Deer (Firearms etc.) (Scotland) Order 1985</i> which specifies the classes of firearms, sights and ammunition which may be used lawfully when killing deer in Scotland. The Policy Note does not include a statement on the relevance or otherwise of changes made by the instrument to established EU law obligations.
The Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) (No. 4) Regulations	2023 No. 313	Not Relevant
The Animal Welfare and Food Safety (International Professional Qualification Recognition Agreement Implementation) (Miscellaneous Amendment) (Scotland) Regulations	2023 No. 312	Indirectly Relevant Policy Note states: "The mutual recognition of professional qualifications was formerly within the competence of the EU, when the UK was a Member State. However, the EEA EFTA Free Trade Agreement was made subsequent to EU exit, and the proposed SSI is consequential to the UK's obligations arising from the Free Trade Agreement. This SSI is therefore not directly relevant to the SG's policy to maintain alignment with the EU."
The Common Organisation of the Markets in Agricultural Products (Fruit and Vegetables) (Amendment) (Scotland) Regulations	2023 No. 311	Indirectly Relevant The Policy Note states: "[This] SSI makes only minor amendments to clarify the length of an operational programme which can be applied for under the Fruit and Vegetables Aid Scheme. The amendment is clarification and does not deviate from the EU programme rules."
The UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (Commencement No. 3) Regulations*	2023 No. 310	Indirectly Relevant The SSI brings into force sections 14 – 17 of the 2021 Act.
The Social Security (Residence and Presence Requirements) (Israel, the West Ban, the Gaza Strip,	2023 No. 309	Not Relevant

East Jerusalem, the Golan Heights, and Lebanon) (Scotland) Regulations		
The Rural Support (Simplification and Improvement) (Scotland) Regulations	2023 No. 308	<p>Directly Relevant</p> <p>Policy Note states: "Following UK's exit from the EU it is no longer necessary to retain Article 31 of the Direct Payments Regulation [(EU) No 1307/2013] and regulation 9(4) of the 2015 Regulations [<i>Common Agricultural Policy (Direct Payments etc) (Scotland) Regulations 2015</i>]. These minor technical simplifications and improvements will not contravene the policy of alignment to EU law. These changes will have no material impact on our young farmer and/or new entrant categories of the National Reserve and the levels of BPS payments for applicants."</p>
The Carer's Assistance (Carer Support Payment) (Scotland) Regulations	2023 No. 302	<p>Indirectly Relevant</p> <p>Policy Note states: "This instrument, and the introduction of Carer Support Payment, is not relevant to the Scottish Government's policy to maintain alignment with the EU. The introduction of Carer Support Payment is also not expected to have any impacts on international trade or investment. However, it is worth noting that these regulations implement the EU rules on social security co-ordination, which are set out in Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 ("the social security co-ordination rules"). The social security co-ordination rules continue to apply to a limited cohort of individuals in the UK by virtue of the EU-UK Withdrawal Agreement, the EEA EFTA Separation Agreement, the Swiss Citizens' Rights Agreement, and certain international agreements that the UK Government has entered into with Ireland and Gibraltar. Carer's Allowance, which Carer Support Payment is replacing, has been classified as a 'cash sickness benefit' by the EU Administrative Commission which means it can be paid in certain circumstances to UK citizens who are living outside the UK, as well as to certain EU and EEA citizens who are living in the UK. As Carer Support Payment eligibility and rules will largely mirror Carer's Allowance on launch it is anticipated that it will be classified in the same way, as a 'cash sickness benefit'. This decision is yet to be made by the EU Administrative Commission and consideration of the benefit is planned for a future session..."</p>
The Public Procurement (Agreement on Government Procurement) (Thresholds) (Miscellaneous Amendments) (Scotland) Regulations	2023 No. 300	<p>Indirectly Relevant</p> <p>Policy Note states: "While this instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU, the EU, like the UK, is party to the GPA and the European Commission is expected to update the thresholds applicable in the EU according to the same methodology" set out in this SSI.</p>
The Non-Domestic Rating Contributions (Scotland) Amendment Regulations	2023 No. 288	Not Relevant
The Public Procurement (Agreement on Government Procurement) (Miscellaneous Amendments) (Scotland) Regulations	2023 No. 287	<p>Indirectly Relevant</p> <p>Although the Policy Note states: "Fundamentally, this instrument is not relevant to the SG's policy to maintain alignment with the EU" It also notes that "The EU, like the UK is a party to the GPA [WTO Agreement on Government Procurement] and will be updating its regulations to fulfil this international obligation" therefore, this SSI indirectly keeps policy in Scotland aligned with policy in the EU.</p>

<p>The Social Security (Iceland) (Liechtenstein) (Norway) (Further provision in respect of Scotland) Order</p>	<p>2023 No. 282</p>	<p>Directly Relevant Policy Note states: "This instrument maintains alignment with EU's policy on social security coordination"</p>
<p>The National Health Service (General Medical Services Contracts and Primary Medical Services Section 17C Agreements) (Miscellaneous Amendments) (Scotland) Regulations</p>	<p>2023 No. 281</p>	<p>Not Relevant Policy Note states: "Following research into EU legislation regarding patient registration for primary care services and the release of persons from a custodial setting, it has been concluded that there are no considerations in respect of EU alignment in relation to this change."</p>
<p>The Land and Buildings Transaction Tax (Green Freeports Relief) (Scotland) Order*</p>	<p>2023 No. 280</p>	<p>Not Relevant</p>
<p>The Title Conditions (Scotland) Act 2003 (Conservation Bodies and Rural Housing Bodies) (Miscellaneous Amendment) Order</p>	<p>2023 No.278</p>	<p>Not Relevant</p>
<p>Act of Adjournment (Criminal Procedure Rules 1996 Amendment) (Witness Citations in Solemn Proceedings)*</p>	<p>2023 No. 276</p>	<p>Not Relevant</p>
<p>The Cost of Living (Tenant Protection) (Scotland) Act 2022 (Amendment of Expiry Date) Regulations*</p>	<p>2023 No. 275</p>	<p>Not Relevant</p>
<p>The Council Tax Reduction (Scotland) Amendment (No. 3) Regulations</p>	<p>2023 No. 268</p>	<p>Not Relevant</p>
<p>The Nutritional Requirements for Food and Drink in Schools (Scotland) Amendment Regulations</p>	<p>2023 No. 267</p>	<p>Not Relevant Policy Note states: "EU alignment would not be engaged as we already have the discretion to do what the SSI is seeking to do regardless of being in the EU or not."</p>
<p>The Marriage Between Persons of Different Sexes (Prescribed Bodies) (Scotland) Amendment Regulations</p>	<p>2023 No. 266</p>	<p>Not Relevant</p>
<p>The Hunting with Dogs (Scotland) Act 2023 (Commencement) Regulations*</p>	<p>2023 No. 262</p>	<p>Not Relevant</p>
<p>The Carer's Assistance (Carer Support Payment) (Consequential and Miscellaneous Amendments and Transitional Provision) (Scotland) Regulations</p>	<p>2023 No. 258</p>	<p>Indirectly Relevant Policy Note states: "This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU. In addition to this, the introduction of Carer Support Payment, which this instrument will make amendments in consequence of, is not expected to have any impacts on the Scottish Government's policy to maintain alignment with the EU. The introduction of Carer Support Payment is also not expected to have any impacts on international trade or investment. However, it is worth noting that the principal Carer Support Payment regulations implement the EU rules on social security co-ordination, which are set out in Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 ("the social security co-ordination rules"). The social security co-</p>

		ordination rules continue to apply to a limited cohort of individuals in the UK by virtue of the EU-UK Withdrawal Agreement, the EEA EFTA Separation Agreement, the Swiss Citizens' Rights Agreement, and certain international agreements that the UK Government has entered into with Ireland and Gibraltar. Carer's Allowance, which Carer Support Payment is replacing, has been classified as a 'cash sickness benefit' by the EU Administrative Commission which means it can be paid in certain circumstances to UK citizens who are living outside the UK, as well as to certain EU and EEA citizens who are living in the UK."
The Sports Grounds and Sporting Events (Designation) (Scotland) Amendment Order	2023 No. 257	Not Relevant
The Local Government Investments (Scotland) Amendment Regulations	2023 No. 255	Not Relevant
The Transport (Scotland) Act 2019 (Commencement No. 7) Regulations*	2023 No. 250	Not Relevant
The National Health Service (General Dental Services) (Miscellaneous Amendment) (Scotland) Regulations	2023 No. 247	Not Relevant
The National Health Service Pension Schemes (Remediable Service) (Scotland) Regulations*	2023 No. 246	Not Relevant
The Personal Injuries (NHS Charges) (Amounts) (Scotland) Amendment (No. 2) Regulations*	2023 No. 243	Not Relevant
The Firefighters' Pensions (Remediable Service) (Scotland) Regulations*	2023 No. 242	Not Relevant
The Teachers' Pensions (Remediable Service) (Scotland) Regulations*	2023 No. 241	Not Relevant
The Local Government Pension Scheme (Remediable Service) (Scotland) Regulations*	2023 No. 240	Not Relevant
The Police Pensions (Remediable Service) (Scotland) Regulations*	2023 No. 239	Not Relevant

*Policy Note either does not exist or does not include 'EU Alignment Consideration' subheading. **This record excludes SSIs made during the research period related to temporary prohibitions on traffic or temporary speed restrictions on specific roads in Scotland; 104 SSIs of this nature were made during the research period; none of the associated Policy Notes contain statements on EU alignment and, in substance, provisions of these 104 SSIs are not relevant to the SG alignment commitment.

2.3 Summary of Wider UK Law Developments

The UK left the EU formally on 31 January 2020, but the changed EU-UK legal relationship mostly took effect at the end of the Transition Period on 31 December 2020.

Although the moment that the UK's withdrawal from the EU took legal effect was a paradigm shift for the state in legal and administrative terms, as a result of a series of measures taken during the Brexit process, the immediate impact on domestic legislation was much more limited than it could have been. Under the EU (Withdrawal) Act 2018, domestic laws that originated in the EU or resulted from UK membership of it, would by default continue to apply after the end of the Transition Period as 'retained EU law' (or REUL) unless and until other provisions were made. The transfer of REUL onto the UK statute was a key facilitator of the SG alignment commitment at that time, because, absent the extensive 'copy and paste' result of its provisions, much of the EU-originating law that had applied by dint of the UK's EU membership would have, by default, ceased to have effect in Scotland at the point of formal UK withdrawal from the EU's legal order. The type of immediate legal divergence that Brexit could have engendered therefore did not happen. Instead under the EU (Withdrawal) Act 2018 the default arrangement was that the UK and/or Scottish statute book would stay aligned with EU law as it existed on 31 December 2020. In this way REUL served as a facilitator of the alignment commitment, however, it is also important to make clear that the preservation of REUL is not the same as alignment with EU law. There are two main reasons for this: (1) the EU laws 'copied' onto the UK statute book under the 2018 Act represent a snapshot of EU law as it existed at a particular point in time – it would not be updated to reflect subsequent changes in EU law made after 31 December 2020;²⁷ (2) changes to REUL could be made by UK Ministers under the 2018 Act if it was deemed that a REUL provision was not operating effectively or there were 'deficiencies' in it – powers granted in relation to the latter were relatively broad and there was no requirement for any associated changes made by UK Ministers to reflect those being made in relevant EU laws.²⁸

In September 2022 the UK Government introduced the Retained EU Law (Revocation and Reform) Bill which, as drafted, would have resulted in the disapplication or 'sunset' of the majority of REUL at the end of 2023; in this scenario, the Scottish Government alignment commitment would have been much more difficult to uphold. A change of approach, however, on the part of the UK Government of Prime Minister Rishi Sunak resulted in the Retained EU Law (Revocation and Reform) Act becoming law in June 2023 without a 'sunset by default' measure for most REUL. Under the REUL (Revocation and Reform) Act, as passed, a specific list of REUL was revoked at the end of 2023 and the (moderated) principle of the supremacy of REUL that had continued after Brexit ceased to have effect, so too the general principles of EU law which no longer apply. The REUL Act also made provision for what was hitherto known as REUL to be known as 'assimilated law'. Under section 5(4) of the REUL Act, after 31 December 2023, all references in UK legislation to "Retained" law must be as referring to "Assimilated" law (and the same for related terms); this legislative drafting technique introduces a "gloss" by which the meanings of words in legislation can be changed without specific textual amendments being made to specific instruments of law. In view of the 'gloss' introduced by the REUL Act, the Scottish Government subsequently made provision in a Scottish Statutory Instrument (SSI 2023/374) for textual amendments to be made on the devolved statute book in Scotland to reflect

²⁷ 2018 Act, s2.

²⁸ *Ibid*, s8.

the new terminology introduced by the REUL Act (i.e., references to “Retained” law are changed to “Assimilated” law); this avoided relying on the ‘gloss’ and furthered legislative clarity.²⁹

While the impact of the REUL (Revocation and Reform) Act 2023 on the SG alignment commitment is much less than it could have been, it is nonetheless an important milestone for understanding the alignment commitment in practice. This is because, over time as UK-wide legislation continues to develop separately from EU legislation, the potential for UK-EU divergence will increase and, consequentially, any decision for Scotland to align with EU developments may have more visible divergence effects domestically if the rest of the UK, or other parts of the UK, opt not to join Scotland in its choice to align with the EU. Under the REUL Act, ministers of the UK government can act to amend assimilated laws in devolved areas without the consent of devolved ministers; Scottish Ministers can make amendments only in areas that are devolved in Scotland. General powers granted to ministers to amend assimilated laws under the REUL Act are available up to June 2026 with the exception of powers granted to update assimilated laws in line with scientific or technological developments, these do not have an expiry date. Overall, for the alignment commitment, the REUL Act is significant because it makes it easier for UK Ministers to amend or revoke assimilated law, thereby enabling further divergence from the rules and standards that are the legislative legacy of EU Membership.

An additional implication given the REUL Act is that changes in UK-wide or GB-wide legislation and/or legislation in England and Wales in areas of policy that overlap with devolved competence in Scotland – and are therefore potentially in scope of the alignment commitment – are likely to play an important role in informing and/or determining decisions taken by the SG in regard to its policy to keep pace with EU developments.³⁰ On this basis, this section of the EU Law Tracker (and subsequent reports) gives an account of developments in UK-wide legislation that are or may be relevant to the alignment commitment due to overlaps between the relevant new act of UK law and areas of policy that were previously within the competence of the EU.

2.3.1 Relevant Primary UK Laws Passed

Since the end of the UK’s Transition Period new legislation has become law which is or may be relevant in the context of the Scottish Government’s alignment policy. While the primary purpose of this report is not to consider the evolution of UK-wide law some of these changes are useful to be aware of when it comes to assessing alignment vs divergence in the context of the EU and Scotland. On this premise Table 5 provides a record of UK public general acts that have become law between August 2023 and January 2024, and which make provision in areas that were previously covered by EU law and/or that relate directly to the fact of the UK’s withdrawal from

²⁹ See The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations SSI 2023/374 Available: <https://www.legislation.gov.uk/ssi/2023/374/contents/made> (accessed 17 January 2024)

³⁰ Arrangements in Northern Ireland are somewhat different due to obligations for it to remain dynamically aligned with aspects of EU law under the Windsor Framework, for details see Whitten, LC (2023) ‘Dynamic Regulatory Alignment and the Protocol on Ireland / Northern Ireland – Two Year and 6 Month Review’ *Post-Brexit Governance NI* Available: <https://www.qub.ac.uk/sites/post-brexit-governance-ni/ProjectPublications/Explainers/DynamicRegulatoryAlignmentandtheProtocolonIrelandNorthernIreland-TwoYearand6MonthReview/> (Accessed 10 September 2023)

the EU. Additionally, for reference, where the legislative consent of the Scottish Parliament was required for (all/part of) the relevant act, the SG position is linked.

Table 5: New Primary Acts of Relevant UK-wide Law (August 2023 – January 2024)

Acts of the UK Parliament	Year Reference	Legislative Consent	Explanation of Relevance
2023			
Procurement Act	2023 c. 54	LCM Supplementary LCM	An Act to repeal EU-law based procurement rules and replace them with a new UK-law regulatory framework for procurement, most of its provisions do not however apply in Scotland which instead opted to retain the EU-law based regulations albeit with some amendments necessary as a consequence of changes brought in by this Act. The supplementary LCM states: "This Bill will alter the public procurement regime in the rest of the UK. It is not the choice of the Scottish Government to follow suit, but it is important to be pragmatic about the implications this will have for devolved Scottish bodies..."
Energy Act	2023 c. 52	LCM Supplementary LCM Supplementary LCM No. 2	An Act to introduce a comprehensive new legislative framework for the production, security, and regulation of the energy market in the UK; the Act is directly relevant to the alignment commitment because it introduces a separate regulatory framework for energy production to that of the EU.
Online Safety Act	2023 c. 50	LCM Supplementary LCM	An Act to make provision for and in connection with the regulation (by OFCOM) of certain online services and introduces certain new offences related to online activities and communications; the Act is directly relevant to the alignment commitment on the basis of its overlap with the EU's Digital Services Act (Regulation (EU) 2022/2065) which has similar objectives to the OSA.
Firearms Act	2023 c. 49	-	An Act to make provision for tighter regulation of 'miniature' rifles and of possession of component parts of ammunition – the Act extends to England, Wales, and Scotland. It is indirectly relevant to the alignment commitment because the EU also legislates in the area of firearms possession and recently updated its rules (see Firearms Directive (EU) 2021/555).
Animals (Low-Welfare Activities Abroad) Act	2023 c. 45	-	An Act to prohibit the sale and advertising of activities abroad in England, Wales, and Northern Ireland, which involve low standards of welfare for animals – the legislation is indirectly relevant because EU legislates in the area of animal welfare and this area of policy is devolved to Scotland.

Of the 18 UK primary UK general public law acts passed between August 2023 and January 2024, five explicitly covered areas of policy that were previously an EU competence, or which are consequential to the UK's withdrawal from the EU.

Assessment reflected in Table 5 has been made on the basis of explanatory notes or official policy briefings published alongside the new Bills/Acts. Where official documents accompanying a Bill/Act state that its provisions follow from or relate to UK withdrawal from the EU and/or previous EU law instruments, details of that primary law act are included in Table 5. In this respect the assessment of relevance is conservative, and the information ought to be taken as a guide rather than as a necessarily authoritative record.

Changes in secondary legislation either UK-wide, GB-wide and/or English and Welsh laws in areas of law and policy that are in scope of the SG alignment commitment have indirect

implications for its effect.³¹ Where changes are being made to assimilated law outside Scotland these may impact on decisions taken as regards the alignment commitment. While it is beyond the scope of this Report to comprehensively monitor the substance of non-Scottish statutory instruments, given the potential for these to have indirect effect on alignment, a selective record of secondary acts of UK law that are, or could be, relevant for the SG alignment commitment is set out in Table 6; the content should be taken as demonstrative rather than comprehensive.

Table 6: New Secondary Acts of Relevant UK Law (August 2023 – January 2024)

³¹ Due to the arrangements made for Northern Ireland under the Windsor Framework, it is in a different position in most relevant policy areas.

UK Statutory Instruments	Year Ref	Territorial Application	Relationship to EU Law in Scope of Alignment*
2024			
The Railways (Revocation and Consequential Provision) Regulations 2024	SI 2024/127	England, Scotland, and Wales	<p>Directly related.</p> <p>This instrument revokes several pieces of rail-related assimilated law using powers granted by the REUL Act and amends existing legislation consequential to those revocations. EM states the instrument: “revokes legislation viewed as being overly prescriptive, [which] add[s] superfluous administrative burdens to industry or are redundant” – little or no impact are therefore anticipated to result from the revocation.</p>
The Official Controls (Import of High-Risk Food and Feed of Non-Animal Origin) (Amendment of Commission Implementing Regulation (EU) 2019/1793) (England) Regulations 2024	SI 2024/120	England only (equivalent changes made for Wales and Scotland)	<p>Indirectly related.</p> <p>This instrument amends the REUL/assimilated law version of an EU Commission Implementing Regulation ((EU) 2019/1793) concerning temporary increases in official controls and emergency measures governing the entry of certain goods from third countries – the purpose of this SI 2024/120 is to amend the lists of imported food and feed that is subject to additional checks or that cannot enter the UK in respect of GB under the assimilated version of the regulation. The EM states: “Relevant Ministers in Scotland and Wales have also agreed to the changes and will be submitting their own Statutory Instruments in their respective countries”.</p>
The Wine (Amendment) (England) Regulations 2024	SI 2024/115	England only	<p>Indirectly related.</p> <p>This instrument amends the REUL/assimilated law versions of an EU Commission Delegated Regulation (EU) 2019/33 and (EU) 2019/934 both of which supplement the EU Regulation on geographical indications ((EU) No 1308/2013), the changes are made in light of the UK’s Protocol of Accession to join the CPTPP and to ensure compliance with its obligations regarding the marketing of wine, and specifically “ice wine” – the SI prohibits the marketing of wine as ‘ice wine’ unless the product is made exclusively from grapes frozen naturally on the vine (see EM for more detail).</p>
The Data Reporting Services Regulations 2024	SI 2024/107	UK wide	<p>Indirectly related.</p> <p>This instrument replaces the REUL/assimilated law related to Data Reporting Service Providers – a type of financial market infrastructure, commercial entities that allow investment firms to fulfil their regulatory reporting obligations – this SI replaces, restates, and amends several REUL/assimilated instruments including the Data Reporting Services Regulations 2017 (see EM for more detail).</p>
2023			
The Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2023	SI 2023/1387	England, Scotland, and Wales	<p>Indirectly related.</p> <p>This instrument makes various amendments to the UK Emissions Trading Scheme related to capping of aviation free allocation at 100% of emissions, clarification of the treatment of Carbon Capture and Storage plants and amending free allocation rules for electricity generation (see EM for details)</p>
The Vehicle Emissions Trading Schemes Order 2023	SI 2023/1394	England, Scotland, and Wales (some aspects UK-wide)	<p>Indirectly related.</p> <p>This instrument establishes Vehicle Emissions Trading Schemes (VETS) in GB – to do so it makes amendments to various REUL/assimilated laws. The EM states: “Having left the EU, the UK is no longer part of the EU’s new car and van emissions regulatory framework and is free to pursue a bespoke approach</p>

			<p>that will deliver a faster transition to zero emission technology. While the UK's current, EU-derived new car and van CO2 emissions regulation manages emissions only, VETS consists of both a ZEV mandate and a Coz emissions standard that together simultaneously increase the number of ZEVs on GB roads while maintaining a limit on the total emissions of non-ZEVs."</p>
<p style="text-align: center;">The Classification, Labelling and Packaging of Substances and Mixtures (Amendment and Consequential Provision) Regulations 2023</p>	<p style="text-align: center;">SI 2023/1344</p>	<p style="text-align: center;">England, Scotland, and Wales</p>	<p style="text-align: center;">Indirectly related.</p> <p>This instrument makes consequential amendments to REUL/assimilated law version of Regulation (EC) No 1272/2008 on classification and packaging of substances and mixtures to reflect revocation of its Annex VIII given effect by the REUL Act 2023. The EM states: "The removal of references [i.e., revocations made by the SI] is intended to minimise confusion amongst importers (those responsible for the physical introduction of chemicals into GB) and downstream users (those who use chemicals in the course of their industrial or professional activities, excluding manufacturers and importers) on whom Annex VIII placed obligations to submit certain harmonised information on hazardous mixtures placed on the GB market."</p>

3. CASE STUDIES

3.1 Examples of the Evolution of EU Law via Tertiary Legislation

The first type of change and potential divergence between EU law and Scots law arises from the evolution of established EU laws via the adoption of tertiary EU legislation that makes provision for the implementation of regulations, directives and decisions which are in the scope of the 2021 Act ‘keeping pace’ powers. Often changes at this level are technical and/or procedural nonetheless they can result in some degree of policy divergence. Several examples are included below.

Where appropriate – an overview of relevant upcoming EU legislative proposals are noted alongside the Scottish Government position on the instrument in respect of its alignment policy – according to information contained in Annex C of its draft 2023 Annual Report published in accordance with the 2021 Continuity Act.

Policy Area: Environmental Protection			
Detailed EU Law Tracker Entry: 7			
EU Law Instrument	Evolution of EU Law	Divergence vs Alignment	Competence
Directive (EU) 2018/2001 on the promotion of the use of energy from renewable source	21 implementing or delegated EU law acts adopted.	Divergence. Policy Impact Expected to be Minimal	Mixed
<p>This ‘PUERS’ Directive establishes a system for the promotion of the use of energy from renewable sources in EU Member States.</p> <p>It recast and repealed several previous EU acts, was adopted in 2018 but with a deadline for transposition in Member States of June 2021, therefore after the UK left the EU.</p> <p>The PUERS Directive sets binding targets for the use of renewable energy in EU states by 2030 and provides for mechanisms by which these can be assessed and achieved.</p>	<p>Since the end of the Transition Period, 21 implementing or delegated acts have been adopted under the PUERS Directive.</p> <p>Most of these acts are not significant for divergence as they concern methods of assessing renewable contributions and/or the authorisation of national schemes for doing so.</p> <p>One of the implementing acts (Delegated Regulation (EU) 2021/2003) established a ‘union renewables development platform’ which aims to support EU states in achieving targets regarding use of renewables by facilitating voluntary ‘statistical transfers’ between EU states that have either exceeded or fallen short of their respective renewables target.</p>	<p>One of the EU acts that the PUERS Directive recast and replaced – the Directive 2009/28/EC (the renewables directive) – still applies in the UK as retained EU law (SI 2011/243) and has been amended to reflect technical changes necessary due to Brexit.</p> <p>The UK-wide Renewable Energy, Energy Efficiency and Motor Fuel Emissions (Miscellaneous Amendments) (EU Exit) Regulations 2021 (SI 2021/1115) made changes to the UK retained EU law version of the renewables directive – a predecessor to the PUERS Directive – to reflect the fact that the UK is no longer in the EU by for example removing requirements on UK authorities to report to the European Commission, and to extend targets beyond 2020 which was when targets in the PUERS predecessor EU laws ended.</p>	

Policy Area: Environmental Protection			
Detailed EU Law Tracker Entry: 2			
EU Law Instrument	Evolution of EU Law	Divergence vs Alignment	Competence
<p>Directive 2012/27/EU on energy efficiency (as amended by Directive (EU) 2018/2002)</p>	<p>2 implementing or delegated EU law acts adopted</p>	<p>Divergence. Keeping Pace Power Under Consideration</p>	
<p>The Energy Efficiency Directive aimed to improve energy efficiency by 20% by 2020 compared to 1990 levels and included a requirement for all EU countries to set national energy efficiency targets to achieve this. It promotes energy efficiency across the EU through a common framework of measures covering all stages of the energy chain (generation, distribution, consumption etc).</p> <p>A 2018 Directive (2018/2002) amended and updated the earlier EE Directive. Main changes included: meeting a 32.5% energy efficiency target by 2030; removing barriers in the energy market that obstruct efficiency; require Member State utility companies to help consumers use 0.8% less energy annually from 2020 onward; clarifying rules on energy metering and billing to strengthen consumer rights; to better account for energy poverty.</p>	<p>Since the end of the Transition Period, two delegated regulations have been adopted under the Energy Efficiency Directive.</p> <p>Delegated Regulation (EU) 2023/2104 adopted under the EE Directive in July 2023 amends the harmonised efficiency reference values for separate production of electricity and heat following a review of the established reference values between 2016 and 2021 – the amendments reflect and integrate developments related to new fuels and emerging technologies in the field of energy.</p> <p>Delegation Regulation (EU) 2023/807 adopted under the EE Directive in December 2022 amends the primary energy factor (PEF) for electricity following a review of the default coefficient on the basis of four years of observed data – the amended PEF reflects technological progress and the growing share of renewable energy sources in the electricity generation sector since 2018.</p>	<p>Certain provisions of the EE Directive (including as amended) were implemented in Scotland via SSIs including: The Pollution Prevention and Control (Scotland) Regulations 2012 (SSI 2012/360); The Pollution Prevention and Control (Scotland) Amendment Regulations 2014 (SSI 2014/267); The Pollution Prevention and Control (Designation of Energy Efficiency Directive) (Scotland) Order 2013 (SSI 2013/321).</p> <p>Certain provisions of the EE Directive were implemented via UK-wide or GB-wide SIs. Some of these have been repealed, for example: Energy Efficiency (Building, Renovation and Reporting) Regulations 2014 (SI 2014/952), the Energy Efficiency (Encouragement, Assessment, and Information) Regulations 2014 (SI 2014/1403) and The Energy Efficiency (Eligible Buildings) Regulations 2013 (SI 2013/3220) partly due to these containing targets only up to 2020.</p>	<p>Mixed</p>
EU Law Proposals or Ongoing Initiatives		Scottish Government Position	
<p>As part of its REPowerEU initiative, the EU proposed a revision to the Energy Efficiency Directive in July 2021 along with the Energy Performance of Buildings Directive and Renewable</p>		<p>SG view (set out in its reporting alongside the Continuity Act annual report)³² is that as this EU</p>	

³² Scottish Government 2023 Annual Report on Exercise of Keeping Pace Powers Under 2021 Continuity Act: p. 19. Available: <https://www.parliament.scot/-/media/files/committees/constitution-europe-external-affairs-and-culture-committee/correspondence/2023/eu-alignment-cover-letter-and-annual-reports.pdf>

<p>Energy Directives – the legislative proposal was published in May 2022 –the parliamentary scrutiny process is still underway in the EU (see 2022/0160 (COD)).</p> <p>The draft Directive sets out the EU’s 2030 energy efficiency target which consists of: a binding collective limit in final energy consumption (equivalent to 763 million tonnes of oil); and an indicative collective limit in primary energy consumption (equivalent to 9925 million tonnes of oil); national contributions to and strategies for meeting these new EU-wide targets on energy efficiency, would not be binding. The draft Directive also contains measures to assist the public sector to enhance energy efficiency, including through zero-emission or nearly-zero emission building renovations.</p>	<p>proposal is still under development it is too early to reach a view on alignment.</p> <p>The SP Net Zero, Energy and Transport Committee may therefore wish to seek an update on the proposed legislation’s progress from SG and request to be kept up to date on whether or not the SG plans to align with this EU proposal and how that decision has been or may be made.</p>
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Policy Area: Environmental Protection

Detailed EU Law Tracker Entry: 26

EU Law Instrument	Evolution of EU Law	Divergence vs Alignment	Competence
<p>Directive 2010/31/EU on the energy performance of buildings</p>	<p>2 implementing or delegated EU law acts adopted</p>	<p>Divergence. Keeping Pace Power Considered</p>	<p>Devolved</p>
<p>This ‘EPB’ Directive sets out minimum requirements and a framework for calculating energy performance of buildings in the EU.</p> <p>As part of the EU’s Clean Energy Package the EPB Directive was substantially amended by Directive (EU) 2018/844 which aimed at accelerating the cost-effective renovation of existing buildings and promoting smart technologies.</p> <p>Key obligations of the amended EPB Directive include: EU countries must have minimum energy performance requirements; renew these every 5years; ensure new buildings meet them; buildings owned/occupied by public authorities must achieve nearly zero-energy status by end 2018 and other new buildings must do the same by end 2020.</p>	<p>Since the end of the Transition Period, 2 implementing/delegated acts have been adopted under the EPB Directive.</p> <p>Delegated Regulation (EU) 2020/2155, adopted under the EPB Directive established an optional common EU scheme for rating the smart readiness of buildings.</p> <p>Implementing Regulation (EU) 2020/2156 adopted under the EPB Directive sets out technical details for implementing the optional common EU scheme.</p>	<p>The EPB Directive was transposed in Scots Law by The Energy Performance of Buildings (Scotland) Amendment Regulations 2012 (SSI 2012/190). Various technical amendments have been made by subsequent SSI’s, the most recent of which was in 2017 (see SSI 2017/225). The now retained EU law versions of the Regulations have not therefore been updated to reflect developments in the EU law version of the EPB Directive since the end of the UK Transition Period.</p> <p>In its 2022 Alignment Report the Scottish Government stated that consideration had been given to using the keeping pace powers in relation to changes made to the EPB Directive by Directive 2018/844 – in particular regarding new requirements for installation of EV chargers. SG concluded that: “a number of factors did not support implementation” of the new measures at that time.</p>	

EU Law Proposals or Ongoing Initiatives	Scottish Government Position
<p>As part of its REPowerEU initiative, the EU proposed a revision to the Energy Performance of Buildings Directive in July 2021 along with the Energy Efficiency and Renewable Energy Directives – the legislative proposal was published in May 2022 –the parliamentary scrutiny process is still underway in the EU (see 2022/0160 (COD)).</p> <p>The new Directive seeks to further promote the improvement of buildings energy performance in addition to boosting the reduction of greenhouse gas emissions from buildings including by setting requirements regarding: the application of minimum energy performance standards to existing buildings and building units; renovation passports; national building renovation plans; sustainability mobility infrastructure in and adjacent to buildings; and smart buildings.</p>	<p>SG view (set out in its reporting alongside the Continuity Act annual report)³³ is that as this EU proposal is still under development it is too early to reach a view on alignment.</p> <p>The SP Net Zero, Energy and Transport Committee may therefore wish to seek an update on the proposed legislation’s progress from SG and request to be kept up to date on whether or not the SG plans to align with this EU proposal and how that decision has been or may be made.</p>

Policy Area: Animal Health and Welfare			
Detailed EU Law Tracker Entry: 47			
EU Law Instrument	Evolution of EU Law	Divergence vs Alignment	Competence
<p>Regulation (EU) 2016/429 on transmissible animal diseases (the ‘Animal Health Law’)</p>	<p>345 implementing or delegated EU law acts adopted</p>	<p>Partial Alignment</p>	<p>Devolved</p>
<p>The AHL Regulation sets out EU rules on animal health.</p> <p>When adopted in 2016, the AHL provided for the repeal of a series of existing EU acts related to animal health which ceased to apply in EU law in April 2021.</p> <p>Key aspects of the AHL relate to: biosecurity measures (e.g., diagnosis and vaccination); registration and tracing of animals and animal products; entry of animals and animal products into the EU; disease control and eradication (including re restrictions on movements, culling and vaccination).</p>	<p>Under the AHL Regulation, the European Commission can adopt legislation to supplement or implement its provisions. These powers are regularly used by the EC primarily in response to biosecurity issues.</p> <p>For example, of the 103 implementing acts adopted in 2023 under the AHL, 95 relate to outbreaks of particular diseases (primarily African Swine Fever, sheep, and goat pox, HPAI or ‘Bird Flu’) in certain types of animals in certain EU member states or third countries with a trade agreement (including the UK).</p>	<p>The Animal Health Act (AHA) 1981 and the Animal Health and Welfare (Scotland) (AHW) Act 2006 set out the main provisions regarding animal health in Scots Law.</p> <p>Prior to UK withdrawal from the EU consequential amendments were made to these primary acts via SSI, including for example The Animal Health (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/71).</p> <p>Since the end of the UK Transition Period subsequent changes have been made by SSI that are relevant to animal health law in Scotland. One of these – The Animal Health (Notification and Control Measures) (Miscellaneous Amendments) (Scotland) Order 2021 (SSI 2021/130) – made updates to legislation to reflect the introduction of the AHL at EU level.</p>	

³³ *Ibid* p.20.

		<p>These updates result in partial alignment between Scots Law and EU Law in the area of animal health.</p>	
		Scottish Government Position	
		<p>On the AHL the SG annual report for 2023 states that: “Scottish Ministers have generally sought to remain aligned with the Animal Health Law when considering individual proposals for change, taking into account veterinary conditions and advice in Scotland.”</p> <p>While perhaps helpful to have a stated SG position regarding the AHL the articulation of it is vague and does not make clear, for example, what specific ‘veterinary conditions and advice’ are used when individual proposals are being considered nor is it clear the extent to which the SG has actually remained aligned with AHL related changes outside of ‘generally seeking’ to do so.</p> <p>In view of the above, the SP Rural Affairs and Islands Committee may wish to request more detail on the SG position and practice as regards alignment with the EU AHL.</p>	

Policy Area: Animal Health and Welfare			
Detailed EU Law Tracker Entry: 62			
EU Law Instrument	Evolution of EU Law	Divergence vs Alignment	Competence
<p>Regulation (EU) 2017/625 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products (the Official Controls Regulation)</p>	<p>113 implementing and delegated EU law acts adopted</p>	<p style="text-align: center;">Divergence Policy Impact Expected to be Minimal at Present</p>	<p style="text-align: center;">Devolved</p>
<p>The ‘OCR’ sets out EU rules on controls that must be performed on all agrifood products entering or circulating in the EU Single Market and on all agrifood producers or traders operating in the EU.</p> <p>The scope of the OCR includes rules on: food and feed safety; use of GMOs; animal health and welfare; organic production and</p>	<p>Under the OCR the European Commission can adopt legislation to adjust rules on official controls to meet specific situations – particularly in relation to animal welfare and human health – the EC does this regularly.</p> <p>Although changes are regularly made to the OCR via EU implementing</p>	<p>A retained EU law version of the OCR is implemented in Scotland through a series of SSIs including: The Official Feed and Food Controls (Miscellaneous Amendments) (Scotland) Regulations 2019 (SSI 2019/407); The Official Controls (Agriculture etc.) (Scotland) Regulations 2019 (SSI 2019/412); The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (SSI 2019/421). These REUL versions of the OCR transposed in Scotland are not by default updated to</p>	

<p>labelling; as well as rules regarding imports of agrifood goods and animals from non-EU countries.</p> <p>Adopted in March 2017 the OCR has applied since December 2019 – it therefore applied in UK law as EU law at that time.</p>	<p>legislation, these tend to be technical, specific, or procedural.</p> <p>Examples from 2023 include: Commission Implementing Regulation (EU) 2023/1032 establishing measures to prevent the introduction and spread of Tomato brown rugose fruit virus in the EU; or Commission Implementing Regulation (EU) 2023/514 amending the list of third countries in the OCR with an approved control plan and including Moldova on the list of those authorised to trade consignments of eggs intended to be placed on the EU market as Class A eggs.</p>	<p>reflect changes that continue to be made to the EU law version of the OCR.</p> <p>Several SSIs passed in 2022 and, most recently in 2024³⁴ have made amendments to the retained (or assimilated) version of the OCR and its application in Scotland; for example The Official Controls (Import of High Risk Food and Feed of Non-Animal Origin) Amendment (Scotland) Regulations 2022 (SSI 2022/341) and The Official Controls (Import of High Risk Food and Feed of Non-Animal Origin) Amendment (Scotland) Regulations 2024 (SSI 2024/12) have both altered requirements re frequency of checks and controls on certain imported products.</p> <p>Under SSI 2024/12 amendments are made to REUL version of Regulation (EU) 2019/1793 which implements aspects of Regulation (EU) 2017/625 in Scotland such that: 13 products listed in its Annexes are removed from the scope of controls; 4 products are subjected to reduced checks; 3 products are subjected to increased controls and 32 products are introduced to the Annexes to be controlled (see policy note for details)</p>	
Scottish Government Position			
<p>Regarding recent changes made (via SSI 2024/12) to the implementation of Regulation (EU) 2017/625 in Scotland, the SG have stated (in an associated policy note): “Whilst it is anticipated that UK reviews will generally align with EU controls divergence is possible. However this would not be due to any proactive policy change. It will be either in relation to our approach to risk analysis which may, on occasion, result in different outcomes to that of the EU and the timing associated with implementation given respective legislative processes. Review 2 of the Regulation [reflected in changes made by the SSI] shows a reduction in divergence with the EU. In overall terms, for commodities subject to controls, Review 2 proposals will increase alignment with the EU.”³⁵</p>			

³⁴ Strictly, this is outside the research period for this report but, given relevance, it is included here for reference.

³⁵ Policy Note *The Official Controls (Import of High Risk Food and Feed of Non-Animal Origin) Amendment (Scotland) Regulations 2024* SSI 2024/12 Available: https://www.legislation.gov.uk/ssi/2024/12/pdfs/ssipn_20240012_en_001.pdf

Policy Area: Plant Health			
Detailed EU Law Tracker Entry: 70			
EU Law Instrument	Evolution of EU Law	Divergence vs Alignment	Competence
Regulation (EU) 2016/2031 on protective measures against pests of plants	71 implementing or delegated EU law acts adopted	Divergence	Devolved
<p>The Plant Health Regulation (PHR) lays down measures to protect plants in the EU territory and circulating in its market from pests and diseases while also promoting environmentally sustainable practices in the plant sector.</p> <p>Key provisions of the PHR include: tracking ‘priority pests’ that are the most potentially harmful to EU plant sector; requiring national plans to manage or contain pest outbreaks; enabling traceability of plants through the plant passport scheme; requirements for a pre-export certificate for plants moving between EU countries or outside the EU; providing for risk-based, preventive measures on plant imports as need to prevent against the introduction or spread of pests.</p>	<p>Adopted in October 2016, the PHR became applicable in December 2019 so before UK withdrawal from the EU.</p> <p>Since the end of the Transition Period 71 implementing or delegated EU acts have been adopted under the PHR – the majority of these make technical provisions relating to specific plants from specific regions. Some related to imports of certain plants from the UK to the EU.</p> <p>Examples include: Commission Implementing Regulation (EU) 2023/1511 regarding certain <i>malus sylvestris</i> (crab apple) plants originating in the UK; or Commission Implementing Regulation (EU) 2023/1174 regarding certain <i>crataegus monogyna</i> (common hawthorn) plants originating in the UK.</p>	<p>A REUL version of the PHR was amended by The Plant Health (Amendment etc.) (EU Exit) Regulations 2020 (SI 2020/1482) which made changes to, in effect, replicate the EU PHR and create a ‘single market’ in plant health covering Great Britain and UK Crown Dependencies.</p> <p>Additional technical changes were made in Scotland to the REUL (or assimilated) version of the PHR by The Plant Health (EU Exit) (Scotland) (Amendment) Regulations 2021 (SSI 2021/159) and The Plant Health (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2021 (SSI 2021/490) – the assimilated version of the PHR in Scotland is not being updated to reflect technical changes being made to the EU version of the PHR.</p> <p>Further changes were made regarding requirements for checks and controls – via The Plant Health (Fees) (Miscellaneous Amendment) (Scotland) Regulations 2022 (SSI 2022/230) – to align with a new “risk-targeted inspection regime” that applied in UK in respect of GB from July 2022.</p>	
Scottish Government Position			
<p>On the PHR the SG annual report for 2023 states that alignment consideration “Varies – aligning with overall framework but adjusting for phytosanitary conditions and advice in Scotland”.³⁶</p> <p>While perhaps helpful to have a stated SG position regarding the PHR the articulation of it is vague and</p>			

³⁶ Scottish Government 2023 Annual Report on Exercise of Keeping Pace Powers Under 2021 Continuity Act: p. 25. Available: <https://www.parliament.scot/-/media/files/committees/constitution-europe-external-affairs-and-culture-committee/correspondence/2023/eu-alignment-cover-letter-and-annual-reports.pdf>

does not make clear, for example, what specific 'phytosanitary conditions and advice' are used when specific instances arise under the 'overall framework' nor is it clear the extent to which the SG has actually remained aligned with the PHR in view of EU-originating changes.

Given the above, the SP Rural Affairs and Islands Committee may wish to request more detail on the SG position and practice as regards alignment with the EU PHR.

3.2 Examples of the Repeal and Replacement of EU Laws

The second type of change and potential divergence between EU law and Scots law arises from regulations, directives or decisions being repealed and replaced at EU level. While in some instances changes have been made in the UK or Scotland to the corresponding retained EU law version of the repealed and replaced EU law act, these do not necessarily mirror those that have taken place in the EU context – sometimes this is a logical consequence of the UK no longer being a Member State.

Only one example of this kind of change in relevant EU law took place during the research period covered in this EU Law Tracker report.

Policy Area: Animal Health and Welfare			
Detailed EU Law Tracker Entry: see 'Organic Production Regulation' section			
EU Law Instrument	Evolution of EU Law	Divergence vs Alignment	Competence
Commission Regulation (EC) No 889/2008 laying down detailed rules on organic production and labelling of organic products	Repealed by Commission Implementing Regulation (EU) 2021/1165	Divergence Policy Impact Expected to be Minimal at Present	Mixed
This regulation relates to arrangements for implementation of Regulation (EC) No 834/2007 on the production and labelling of organic agriculture / aquaculture products. This 2007 Organic Products Regulation was itself repealed	The 889/2008 Commission Regulation was repealed on 15 July 2021 by Commission Implementing Regulation (EU) 2021/1165 but a transition period was provided for in the new act which ended in December 2023. The overarching purpose of the repeal was to ensure legal clarity and certainty by consolidating various lists of authorisations and requirements regarding	A REUL/assimilated version of Commission Regulation 889/2008 still applies in the UK in respect of Great Britain. Changes were made to this UK(GB) version by The Organic Production and Control (Amendment) (EU Exit) Regulations) (SI 2019/693) – these were technical in nature and did not substantively change the obligations and provisions of the existing legislation.	

<p>and replaced by Regulation 2018/848 on 1 January 2022.³⁷</p> <p>The 2008 Commission Regulation laid down a legal framework for organic products setting out the basic objectives and general principles for organic farming as well as setting out the rules on production, labelling, controls, and trade with non-EU countries.</p>	<p>organic production – the new implementing regulation does not substantively change the established EU legal framework re organic production and labelling.</p>	<p>Because the new Commission Implementing Regulation 2021/1165 was adopted by the EU after UK Exit the change is not reflected in the assimilated version of the earlier instrument.</p>	
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3.3 Examples of Proposed or Adopted New EU Laws

The third type of change and potential divergence between EU law and Scots law arises from the adoption of new EU laws that make provisions which either would or could have been within the competence of the Scottish Government had the UK and Scotland remained in the EU. In some instances the new EU acts amend established acts that were, fully or partially, within Scottish Government competence while the UK was a Member State; in other examples the new EU acts introduce provisions that complement or supplement established acts that were, fully or partially, within Scottish Government competence while the UK was a Member State.

In the time period covered by this EU Law Tracker report not many relevant EU laws have been adopted. As already noted, (see section 2.1), of the 213 ‘significant’ and ‘pending’ proposals for new EU acts set out in Annex II and Annex III of the 2024 EU Work Programme, based on the draft legislative proposals, 30 are likely to be in scope of the SG alignment commitment if/when they become new EU laws. While a comprehensive record is included in Annex 2 of this report, several examples are set out in more detail below.

Policy Area: Animal Health and Welfare			
EC Work Programme EU Law Tracker Entry: 9			
EU Law Proposal	Relevant SG Alignment	Divergence vs Alignment	Competence
<p>Proposal for a Regulation of the European Parliament and of the Council on plants obtained by certain new genomic techniques and their food and feed and amending Regulation (EU) 2017/625</p>	<p>Yes</p>	<p>Potential Divergence Under SG consideration</p>	<p>Devolved</p>
	<p>The proposed new EU act would amend and/or make</p>	<p>The 2023 SG Annual Report published in accordance with the 2021 Act states:</p>	

³⁷ Some aspects of Commission Regulation (EC) 889/2008 remain in place until 31 December 2026 but only for the purpose of examining pending applications from non-EU countries.

<p>The purpose of the proposed legislation is to update the EU regulatory framework to account for new genomic techniques including targeted mutagenesis more adequately and cisgenesis.</p> <p>The proposal was published in July 2023 – at time of reporting it is awaiting the position of the European Parliament at first reading.</p>	<p>provisions related to: Official Controls Regulation ((EU) 2017/625) as well as EU rules on GMOs laid down in: Regulation (EC) No 1829/2003, Regulation (EC) No 1830/2003 and Directive 2009/41/EC.</p> <p>The above instruments are in scope of the SG alignment commitment.</p>	<p>“Scotland’s GMO (genetically modified organisms) regulations remain in alignment with the EU regulations currently in place, including their treatment of new genomic techniques. However, regulations in England on similar technologies are diverging (via the Genetic Technology (Precision Breeding) Act) and this may have impacts on Scotland. We note the European Commission’s consideration of new genomic techniques such as gene editing and how these relate to existing GM legislation and are looking carefully at the implications of the legislative proposals the Commission published in July.”³⁸</p> <p>In view of the SG position set out above, relevant committees in the SP may wish to seek an update regarding SG consideration of the current proposal.</p>	
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Policy Area: Environmental Protection			
EC Work Programme EU Law Tracker Entry: 6			
EU Law Proposal	Relevant SG Alignment	Divergence vs Alignment	Competence
<p>Proposal for a Directive of the European Parliament and of the Council on Soil Monitoring and Resilience (Soil Monitoring Law)</p>	<p>Yes</p>	<p>Potential Divergence.</p>	<p>Mixed</p>
<p>The purpose of the proposed legislation is to introduce a solid and coherent soil monitoring framework for all soils across the EU and to thereby address a current gap in knowledge as regards soil health and soil resilience.</p> <p>The proposal was published in July 2023 – at time of reporting it is awaiting a committee decision in the European Parliament/</p>	<p>The proposed new act would amend and/or make provisions related to: the Waste Directive (2008/98/EC), the Landfill Directive (1999/31/EC), the Industrial Emissions Directive (2010/75/EU), the Water Framework Directive (2000/60/EC), the Floods Directive (2007/60/EC), the Birds Directive (2009/147/EC), and the Habitats Directive (92/43/EEC).</p>	<p>The 2023 SG Annual Report published in accordance with the 2021 Act states:</p> <p>“We also welcome the Commission’s focus on healthy soils which are central to storing, sequestering, and regulating carbon, and are a key component of many Scottish policies, for example, our Vision for Agriculture and National Test Programme, Climate Change Plan, National Planning Framework 4, Scottish Biodiversity Strategy, and Land Use Strategy.”³⁹</p>	

³⁸ SG 2023 Annual Report, p.36.

³⁹ SG 2023 Annual Report, p.36.

	The above instruments are all in scope of the SG alignment commitment.	The Annual Report does not contain any further statement or analysis on the EU proposal for a new Soil Monitoring Law. The Net-Zero, Energy and Transport SP Committee may therefore seek an update from the SG on their position regarding the SML proposal and their assessment on the possibility of future alignment with it.	
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Policy Area: Environmental Protection			
EC Work Programme EU Law Tracker Entry: 17			
EU Law Proposal	Relevant SG Alignment	Divergence vs Alignment	Competence
<p>Proposal for a Directive Of The European Parliament And Of The Council amending Directive 2000/60/EC establishing a framework for Community action in the field of water policy, Directive 2006/118/EC on the protection of groundwater against pollution and deterioration and Directive 2008/105/EC on environmental quality standards in the field of water policy.</p>	Yes	Potential Alignment SG stated intention to align	Devolved
<p>The overarching aim of the proposed new EU act is to: increase the protection of EU citizens and natural ecosystems by updating the regulatory framework re water to better reflect scientific advances including through addition of microplastic and antimicrobial resistant genes to the list of indicative pollutants in the Water Framework Directive. The proposal also seeks to increase the effectiveness and to enable the EU to respond more quickly to emerging risks through administrative changes.</p> <p>The proposal was published in October 2022– at time of reporting it is awaiting the position of the European Parliament at first reading.</p>	<p>The proposed new EU law would amend the Water Framework Directive (2000/60/EC) the Groundwater Directive (2006/118/EC) and the Environmental Standards Directive (2008/105/EC) – all of which are in scope of the SG alignment commitment.</p>	<p>The EU acts that would be impacted by this new legislation are implemented in Scotland by the Water Environment and Water Services (Scotland) Act 2003 and related secondary legislation.</p> <p>The 2023 SG Annual Report published in accordance with the 2021 Act states that “although the proposal is not finalised, the Scottish Government intends to incorporate updated standards into Scottish legislation, as far as possible.”</p> <p>This is therefore an area for possible future exercise of the keeping pace powers.</p>	

Policy Area: Environmental Protection			
EC Work Programme EU Law Tracker Entry: 19			
EU Law Proposal	Relevant SG Alignment	Divergence vs Alignment	Competence
<p>Proposal for a Regulation of the European Parliament and of the Council on nature restoration</p>	Yes	Potential Divergence Subject to future SG consideration	Mixed
<p>The overarching aim of the proposal for a new EU regulation on nature restoration is to: contribute to the continuous, long-term, and sustained recovery of biodiverse and resilient nature across the EU's land and sea areas by restoring ecosystems and contributing to EU climate mitigation and adaptation objectives. To this end the proposal sets multiple binding restoration targets and obligations across a broad range of ecosystems covering at least 20% of the EU's land and sea areas by 2030 and all ecosystems in need of restoration by 2050.</p> <p>The proposal was published in June 2022– at time of reporting it is awaiting the position of the European Parliament at first reading.</p>	<p>The proposed new EU law would complement and relate to the Birds Directive (2009/147/EC) the Habitats Directive (92/43/EEC) the Water Framework Directive (2000/60/EC) and the Marine Strategy Framework Directive (2008/56/EC) – all of which are in scope of the SG alignment commitment.</p>	<p>The EU acts to which the new Nature Restoration Regulation would relate are implemented in Scotland through a range of different legislative instruments.</p> <p>The Birds Directive is implemented (non-exhaustively) by the Marine (Scotland) Act 2010 and The Conservation (Natural Habitats) Amendment (Scotland) Regulations 2011.</p> <p>The Habitats Directive is implemented by (non-exhaustively) Nature Conservation (Scotland) Act 2004; The Conservation (Natural Habitats) Amendment (Scotland) Regulations 2007; The Environmental Impact Assessment (Agriculture) (Scotland) Regulations 2006; The Conservation (Natural Habitats) (Amendment) (No. 2) (Scotland) Regulations 2007; and The Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (Scotland) Regulations 2007.</p> <p>The Water Framework Directive is implemented by (non-exhaustively) The Water Environment (Drinking Water Protected Areas) (Scotland) Order 2013; The Water Environment (River Basin Management Planning: Further Provision) (Scotland) Regulations 2013; the Water Environment and Water Services (Scotland) Act 2003.</p> <p>The Marine Strategy Framework Directive is implemented by Marine (Scotland) Act 2010 (asp. 5).</p> <p>The 2023 SG Annual Report published in accordance with the 2021 Act states that this “proposal is under development” and is therefore “subject to future consideration” by the SG in relation to its keeping pace powers.</p>	

Policy Area: Public Health			
EC Work Programme EU Law Tracker Entry: 27			
EU Law Proposal	Relevant SG Alignment	Divergence vs Alignment	Competence
<p><u>Proposal</u> for a regulation of the European Parliament and of the Council on standards of quality and safety for substances of human origin intended for human application</p>	Yes	Potential Alignment SG stated intention to align	Devolved
<p>The new proposal would repeal existing EU Directives (2002/98/EC and 2004/23/EC) in view of their shortcomings in particular as regards rules for preventing risk of disease transmission and lack of measures for ensuring sufficiency of supply. The objective of the new legislation is to ensure a high level of health protection for EU citizens, to ensure they have access to safe and effective supplies of bloods, tissues, and cells of human origin, and to better account for relevant developments in science and technology.</p> <p>The proposal was published in July 2022 – at time of reporting it is <u>awaiting</u> the position of the European Parliament at first reading.</p>	<p>The new EU proposal would repeal the Human Blood Directive (2002/98/EC) and the Organs and Human Tissues Directive (2004/23/EC) both of which are in scope of the SG alignment commitment.</p>	<p>The 2023 SG Annual Report published in accordance with the 2021 Act states, under the heading ‘current alignment consideration’: “yes” as regards the revision of the ‘blood, tissues and cells legislation’.</p> <p>In view of the SG position, the SP Committee on Health, Social Care and Sport Committee may wish to inquire further as regards the SG plans for aligning with the EU proposal.</p> <p>It is also more generally notable that the EU proposal for a revision of the blood, tissues, and cells (BTC) legislation is at a similar stage to other still-draft EU instruments for which the SG position is stated in more ambiguous terms (e.g., ‘proposal is under development, subject to future consideration’) yet for the BTC legislation a definitive SG position has already been taken – this apparent discrepancy may warrant further inquiry.</p>	

Policy Area: Transport			
EC Work Programme EU Law Tracker Entry: 22			
EU Law Proposal	Relevant SG Alignment	Divergence vs Alignment	Competence
<p><u>Proposal</u> for a regulation on Union guidelines for the development of the Trans-European transport network.</p>	Yes	Potential Divergence Subject to future SG consideration	Mixed
<p>This proposal for a revision of the existing TEN-T Regulation has four objectives: to address insufficient or incomplete infrastructure standards and a lack of integration of alternative</p>	<p>The new EU proposal would repeal the Trans-European Transport Network Regulation (1315/2023) which is in scope of the SG alignment</p>	<p>The retained EU law version of the TEN-T Regulation was repealed in the UK (including Scotland) at the end of 2023 under Schedule 1 of the REUL Act.</p>	

<p>fuels infrastructure; to address capacity bottlenecks and insufficient network connectivity; to address insufficient safety standards and reliability of the existing network; and to ensure governance instruments are fit for purpose.</p> <p>The proposal was published in December 2021 – at time of reporting it is awaiting the position of the European Parliament at first reading.</p>	<p>commitment, subject to the extent of SG devolved competence.</p>	<p>The 2023 SG Annual Report published in accordance with the 2021 Act states: ‘proposal under development, subject to future consideration’.</p> <p>In view of the repeal of the REUL version of the TEN-T Regulation in the UK and of the SG position regarding ‘future consideration’ of aligning with the proposed new TEN-T Regulation, the Net Zero, Energy and Transport Committee of the SP may wish to seek an update from the SG regarding their consideration of this proposal.</p>	
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Policy Area: Police and Judicial Cooperation			
EC Work Programme EU Law Tracker Entry: 28			
EU Law Proposal	Relevant SG Alignment	Divergence vs Alignment	Competence
<p>Proposal for a Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse.</p>	<p>Yes</p>	<p>Potential Divergence</p>	<p>Devolved</p>
<p>The new EU Proposal for a Regulation would introduce an obligation for providers to detect, report, block and remove child sexual abuse material from their services and also seek to enable improved detection, investigation, and prosecution of offences under the Child Sexual Abuse Directive. Additionally, the proposal builds on EU GDPR by creating a system of target detection orders and specifications for the conditions for detection in relevant circumstances.</p> <p>The proposal was published in May 2022 – at time of reporting it is awaiting the position of the European Parliament at first reading.</p>	<p>The new EU proposal relates to the Child Sexual Abuse Directive (2011/93/EU) which is in scope of the SG alignment commitment.</p> <p>Additionally, the new EU proposal would build on the requirements of EU GDPR and on Regulation (EU) 2021/1232 which was introduced after the UK left the EU and does not therefore have effect in the UK as REUL or assimilated law.</p>	<p>In Scotland the CSA Directive to which this new proposal would relate was implemented via amendment to The Protection of Vulnerable Groups (Scotland) Act 2007 – see The Protection of Vulnerable Groups (Scotland) Act 2007 (Miscellaneous Provisions) Amendment Order 2014.</p> <p>The 2023 SG Annual Report published in accordance with the 2021 Act refers to this EU proposal with the following statement: “We will continue monitoring any developments of these proposals and consider possible alignment following an analysis of whether Scotland can or already has made such domestic legal changes” (p.42).</p>	

3.4 Conclusion on Case Studies and Alignment

Overall the new reporting approach of the Scottish Government provides greater insight into the position taken as regards specific EU instruments as well as EU proposals for new acts that are relevant for and potentially in scope of the SG commitment to ‘keep pace’ with EU law changes. It is also however the case that in some cases the information provided by the SG in its Annual Report on the Continuity Act lacks clarity and/or specificity particularly as regards the criteria and associated procedures for determining whether or not EU instruments/proposals that are currently ‘under consideration’ by the SG may or may not end up being those with which Scotland opts to remain aligned. While perhaps a more minor point, there is also noticeable variation in SG reporting use of terminology regarding its position on different EU instruments. Some, for example, are deemed ‘under active consideration’ while for others it is stated that the ‘proposal under development, subject to future consideration’, the qualitative difference, in terms of related SG activity or analysis, between these two distinct categories is not clear.

To further bolster scrutiny of the implementation of the alignment policy, committees in the Scottish Parliament may wish to seek more clarification from the Scottish Government in regard to: (1) specific policies or policy areas (including some of those set out above); (2) criteria and processes associated with instances of alignment being ‘under consideration; (3) updates on the content of relevant EU legislative proposals/revisions as these progress through the EU institutions and; (4) updates on SG assessments of the suitability or otherwise of Scotland aligning with specific upcoming EU law changes.

4. ANALYSIS

4.1 Summary of Legislative Changes

4.1.1 EU Initiated Change

Of the roughly 250 EU laws that, pre-Brexit, were either fully or partially in the competence of the Scottish Government and therefore potentially in scope of the alignment commitment 35 have been repealed since the end of the UK Transition Period (see Annex 1). Not all of the repealed EU acts have been directly replaced because the effect of some changes during the reporting period was to replace numerous established acts with one more comprehensive new EU act. In particular this applies to the introduction of the Animal Health Law and the Official Controls Act – the former accounts for 13 of the repealed EU acts and the latter for 6 repealed acts. According to this analysis, approximately 217 acts of secondary EU law (regulations and directives) are currently in scope of the SG alignment commitment – this does not include draft EU proposals which may be in scope in future.

As part of the normal process of EU law-making, tertiary (implementing or delegated) acts are frequently adopted. During the reporting period – January 2021 to August 2023 – approximately 832 acts of tertiary EU law have been adopted in relation to acts that are potentially in scope of the Scottish Government alignment commitment (see Annex 1). By definition tertiary EU acts make technical or operational provisions for the implementation of the ‘parent act’ to which they relate – changes made at this level do not tend to alter policy trajectories and are therefore not often likely to have a significant divergence effect. That said, on occasion EU implementing law may make changes that, although still technical in nature, may nonetheless result in divergence of standards that are relevant for Scotland and its policy of alignment. Examples of tertiary law changes are included in the case studies of this Report (see section 3.1) and the detailed EU Law Tracker (see Annex 1) provides a full record of relevant updates.

Although any one individual change in EU tertiary law is unlikely to have a visible impact, the cumulative effect of multiple changes of this nature over time is likely to result in evident divergence, assuming no corresponding changes are made in Scotland. Additionally, if there are corresponding but separate developments in domestic law – Scotland specific or UK-wide – the effect of technical changes in EU law are likely to be more significant. Notably, this assessment supports the Scottish Government position “that all EU legislation (tertiary or otherwise) has potential relevance to the commitment to align and is considered in the same way as regulations and directives for relevance to Scotland”.⁴⁰

When a considerable amount of change has been made to an EU regulation, directive, or decision via tertiary EU law, a ‘consolidated version’ of the parent act is often published wherein all changes and updates are incorporated in the original text. Although not an exact measure,

⁴⁰ Scottish Government 2023, June 28 ‘Document Summarising Consideration of the Representations Made on the Draft Annual Report on the Scottish Ministers Exercise of the Power in Section 1 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 Laid in Draft in Parliament on 27 October 2022’ [SG/2023/138] *parliament.scot* Available: <https://www.parliament.scot/-/media/files/committees/constitution-europe-external-affairs-and-culture-committee/correspondence/2023/explanatory-note-on-representations.pdf> (Accessed 11 September 2023): para. 16.

tracking the number of consolidated text versions published during the reporting period for EU law instruments in scope of the alignment commitment can therefore give an indicator of the level of change being made via tertiary law. Since the end of the UK Transition Period until the end of the report period, 64 consolidated text versions have been published for relevant EU law instruments (see Annex 1).

The CEEAC Committee and/or other subject committees in the Scottish Parliament may wish to invite Scottish Government Ministers to respond to the possible impacts of changes in tertiary EU law – reflected in consolidated text versions of relevant instruments – on the alignment commitment.

Several initiatives for new EU regulations or directives are relevant to the Scottish Government's alignment commitment. At least 30 of the priority proposals identified in the European Commission Work Programme 2024 relate to existing acts of EU law that are in scope of the alignment commitment. If not for UK withdrawal from the EU those 30 proposed EU instruments could have been expected to enact measures that were fully or partially within Scottish competence; they are therefore relevant to the alignment commitment. None of the 30 identified had concluded their EU legislative process at the time of reporting. Progress of these still-draft EU proposals will be covered in subsequent EU Law Tracker reports. As will all aspects of this research, the ongoing monitoring of EU proposals for new law is intended to complement similar work being undertaken by the Scottish Government to “monitor relevant policy developments in the EU” including those set out in EC Work Programmes.⁴¹

4.1.2 Scotland and UK Initiated Change

As noted in this Report, alongside use of the EU (Continuity) Act 2021 powers to keep pace with EU policy, the Scottish Government may opt to pass primary acts of law that help fulfil the commitment to stay aligned with EU law as appropriate. For this reason, tracking the evolution of primary Scottish law is an important aspect of monitoring the implementation of the alignment commitment. Neither of the two primary acts of law passed in Scotland during the reporting period were of direct relevance to the alignment commitment. Of the 73 statutory instruments passed for Scotland during the research period, 26 are relevant to the alignment commitment and/or EU withdrawal more generally with 8 of these being directly relevant.

In addition to understanding the evolution of relevant EU law and its implications for the alignment commitment, changes in UK-wide (or GB-wide) law are also an important part of the overall picture when it comes to Scotland keeping pace with EU policies. Over time as the EU and the UK legal orders and policy priorities develop (following Brexit) on separate trajectories, any decision taken in Scotland to align with EU law or policy (potentially) as opposed to UK law (including either England and Wales or England, Wales, and Northern Ireland) can be expected to have more evident implications for intra-UK relations and the operation of the UK internal market. For this reason, tracking the evolution of primary UK-wide or GB-wide law developments where these overlap with areas of (previous) EU competence is another important aspect of monitoring the implementation of the SG alignment commitment.

⁴¹ See *ibid*: para. 14-15.

Of the 18 primary acts of UK-wide (or GB-wide) law passed during the reporting period, at least five make provisions in areas previously within EU competence and/or provisions which otherwise arise by dint of UK withdrawal from the EU. Measures contained in these five primary UK acts are/may therefore be (directly or indirectly) relevant to the Scottish Government's alignment commitment.

The CEEAC Committee and/or other subject committees in the Scottish Parliament may wish to invite Scottish Government Ministers to respond to the possible impacts of these changes in primary UK/Scotland acts on the commitment to align.

4.2 Overall Assessment of Alignment vs Divergence

Changes in EU law relevant to the Scottish Government alignment commitment and documented in this EU Law Tracker can usefully be separated into three categories:

- Divergence due to evolution of established EU laws
- Divergence due to repeal and replacement of EU laws
- Divergence due to adoption of new EU laws

Overall there has not been significant divergence between Scots Law and EU Law in areas that are in the scope of the alignment commitment during the reporting period. Most instances of divergence or potential divergence arise from relatively minor changes in EU law via the development of tertiary legislation and/or updates to secondary legislation via repeal and replacement of EU law alongside change adopted in UK and/or Scots Law to reflect the fact that the UK is no longer a Member State of the EU. There have also been examples of the Scottish Government actively choosing to align with developments in EU law, including in one instance through the use of the EU Continuity Act 2021 'keeping pace' powers. Overall, to date, the Scottish Government commitment to align with developments in EU law has largely been upheld; mostly this is the result of an equivalence between the UK/Scottish statute book and the EU legal acquis that is a legacy of the UK's previous EU membership.

The Scottish Government's new approach to reporting on the implementation of its alignment policy is a very welcome development and one that bolsters transparency and aids legislative clarity. It is also the case, however, that in some instances the articulation of the Scottish Government position in relation actual or potential alignment with specific EU instruments or proposals is vague and leaves room for ambiguity; committees in the Scottish Parliament may therefore wish to seek more information from the Scottish Government in this regard, including on EU policies/proposals that are of particular interest or importance.

In view of EU legislative proposals and upcoming initiatives, across a range of policy areas there is potential for divergence by default if Scotland does not (continue to) actively pursue the same policy objectives as the EU in areas within its devolved competence and therefore potentially in scope of the alignment commitment. At the same time, initiatives being pursued at a UK-wide or GB-wide level could sit in tension with the Scottish Government's commitment to alignment and may, in future, force a choice between aligning with other regions of the UK and aligning with the

EU legal acquis albeit without formal recognition by the EU of any such alignment in the case of the latter.

5. APPENDICES

Appendix One: Record of EU Law Changes in Scope of Alignment Commitment

Policy Area Summary: ENVIRONMENTAL PROTECTION

EU acts in scope: 43 directives and regulations.

Total EU tertiary acts since 1 January 2021: 43 implementing and delegated acts.

Change since last EU Law Tracker report: 0 secondary and 4 tertiary acts.

European Union Law, Status and Processes							
No.	Policy Area	Official Journal	Consolidated Text	EU Law Updates	EU Implementing Law Updates	Since Last EU Tracker	
						EU (Secondary) Law	EU (Tertiary) Law
ENVIRONMENTAL PROTECTION							
Carbon Capture and Storage							
1	Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006	L160-5-6-2009 p.114-135	Consolidated: 78-12-2018	N/A	N/A	N/A	N/A
Energy Efficiency							
2	Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC	L315-14-11-2012 p.1-56	Consolidated: 4-5-2023	N/A	Commission Delegated Regulation (EU) 2023/2104 and (EU) 2023/897	N/A	1
Energy Planning Consents							
3	Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment	L26-28-1-2012 p.1-21	Consolidated: 15-05-2014	N/A	N/A	N/A	N/A
4	Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC - Statement by the Commission	L156-25-6-2003 p.17-25	Consolidated: 31-12-2016	N/A	N/A	N/A	N/A
5	Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment	L124-25-4-2014 p.1-18	N/A	N/A	N/A	N/A	N/A
Onshore Hydrocarbons Licensing							
6	Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorisations for the prospecting, exploration and production of hydrocarbons	L168-30-6-1994 p.8-8	Consolidated: 78-12-2018	N/A	N/A	N/A	N/A
Renewable Energy							
7	Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of these of energy from renewable sources (recast)	L328-23-12-2018	Consolidated: 20-11-2023	N/A	Commission Delegated Regulation (EU) 2021/2003, 2022/759, 2023/1184, 2023/1185, 2023/1640; Commission Implementing Decision (EU) 2022/603, 2022/604, 2022/605, 2022/611, 2022/609, 2022/600, 2022/607, 2022/602, 2022/610, 2022/608, 2022/601, 2022/599, 2022/606, 2022/996, 2022/1657, 2022/1656, 2022/1655, 2022/2448, 2022/2461, 2023/1760	Consolidated	2
Biodiversity- Resource Access & Benefit Sharing							
8	Regulation (EU) No 511/2014 of the European Parliament and of the Council of 16 April 2014 on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union	L150-20-5-2014 p.59-71	N/A	N/A	Latest: 13 October 2015	N/A	N/A
9	Commission Implementing Regulation (EU) 2015/1866 of 13 October 2015 laying down detailed rules for the implementation of Regulation (EU) No 511/2014 of the European Parliament and of the Council as regards the register of collectors, monitoring user compliance and best practices	L275-20-10-2015 p.4-18	N/A	N/A	N/A	N/A	N/A
Flood Risk Management							
10	Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007 on the assessment and management of flood risks	L288-6-11-2007 p.27-34	N/A	N/A	N/A	N/A	N/A
Marine Environment							
11	Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive)	L164-25-6-2008 p.19-40	Consolidated: 7-6-2017	N/A	N/A	N/A	N/A
12	Commission Directive (EU) 2017/845 of 17 May 2017 amending Directive 2008/56/EC of the European Parliament and of the Council as regards the indicative lists of elements to be taken into account for the preparation of marine strategies	L125-18-5-2017 p.27-33	N/A	N/A	N/A	N/A	N/A
Natural Environment and Biodiversity							
13	Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species	L317-8-11-2014 p.35-55	Consolidated: 14-12-2019	N/A	Commission Implementing Regulation (EU) 2022/1203	N/A	N/A
14	Council Regulation (EC) No 3254/91 of 4 November 1991 prohibiting the use of leghold traps in the Community and the introduction into the Community of pets and manufactured goods of certain wild animal species originating in countries which catch them by means of leghold traps or trapping methods which do not meet international humane trapping standards	L308-9-11-1991 p.4-4	N/A	N/A	N/A	N/A	N/A
15	Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds	L20-26-1-2010 p.7-25	Consolidated: 26-06-2019	N/A	N/A	N/A	N/A
16	Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora	L206-27-7-1992 p.7-50	Consolidated: 1-7-2013	N/A	N/A	N/A	N/A
17	Council Directive 1999/22/EC of 29 March 1999 relating to the keeping of wild animals in zoos	L94-9-4-1999 p.24-26	N/A	N/A	N/A	N/A	N/A
18	Council Directive 83/129/EEC of 28 March 1983 concerning the importation into Member States of skins of certain seal pups and products derived therefrom	L91-9-4-1983 p.30-31	Consolidated: 15-6-1989	N/A	N/A	N/A	N/A

Noise Management							
19	Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise - Declaration by the Commission in the Conciliation Committee on the Directive relating to the assessment and management of environmental noise	L1891872002p12-25	Consolidated 29.7.2021	N/A	N/A	N/A	N/A
Spatial Data Infrastructure Standards							
20	Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)	L1082542007p1-14	Consolidated 26.6.2019	N/A	N/A	N/A	N/A
Water Quality							
21	Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment	L352051991p40-52	N/A	N/A	N/A	N/A	N/A
22	Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption: date of end of validity 12.1.2023	L32727122000p1-73 L3305121998p37-54	Consolidated 20.11.2014 Consolidated 27.10.2015	N/A	N/A	Repealed by Directive 2020/2184: Article 26	N/A
23	Directive (EU) 2020/2184 of the European Parliament and of the Council of 16 December 2020 on the quality of water intended for human consumption (recast)	L43523122020p1-62	N/A	N/A	N/A	Commission Implementing Decision (EU) 2022/679	N/A
Harbours - Waste Management							
24	Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment	L262812011p1-21	Consolidated 15.5.2014	N/A	N/A	N/A	N/A
25	Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment	L1742542014p1-18	N/A	N/A	N/A	N/A	N/A
Energy Performance of Buildings							
26	Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (recast)	L1531862010p13-35	Consolidated 1.1.2021	N/A	N/A	Commission Implementing Regulation (EU) 2020/2156 and Commission Delegated Regulation (EU) 2020/2155	N/A
Environmental Impact Assessment Directive							
27	Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment	L262812011p1-21	Consolidated 15.5.2014	N/A	N/A	N/A	N/A
Strategic Environmental Assessment							
28	Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment	L1972172001p30-37	N/A	N/A	N/A	N/A	N/A
Control of Major Accident Hazards							
29	Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC Text with EEA relevance	L1972472012p1-37	N/A	N/A	N/A	Commission Implementing Decision (EU) 2022/1979	N/A
Radioactive Substances							
30	Council Directive 2013/51/Euratom of 22 October 2013 laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption	L2967112013p12-21	N/A	N/A	N/A	N/A	N/A
Air Quality							
31	Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe	L1521162008p1-44	Consolidated 18.9.2015	N/A	N/A	N/A	N/A
32	Directive 2004/107/EC of the European Parliament and of the Council of 15 December 2004 relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air	L232612004p3-16	Consolidated 18.9.2015	N/A	N/A	N/A	N/A
Industrial Emissions - Best Available Techniques (BAT)							
33	Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control)	L31817122010p17-118	Consolidated 6.1.2011	N/A	N/A	Commission Implementing Decision (EU) 2020/2009, 2021/2338, 2022/2110, 2022/2437, 2022/2508 and 2023/2749	N/A
Waste & Resources							
34	Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste	L1821671999p1-10	Consolidated 4.7.2018	N/A	N/A	N/A	N/A
35	Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives	L31222112008p1-30	Consolidated 5.7.2018	N/A	N/A	N/A	N/A
36	Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE)	L1972472012p38-71	Consolidated 4.7.2018	N/A	N/A	Latest 17 December 2019	N/A
37	Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC	L2662692006p1-14	Consolidated 4.7.2018	N/A	N/A	N/A	N/A
38	Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of-life vehicles	L26921102000p34-64	Consolidated 30.3.2021	N/A	N/A	N/A	N/A
39	European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste	L36531121994p10-23	Consolidated 4.7.2018	N/A	N/A	N/A	N/A
40	Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC	L1021142006p15-34	Consolidated 28.2.2009	N/A	N/A	N/A	N/A
41	Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC	L1972472012p1-37	N/A	N/A	N/A	Commission Implementing Decision (EU) 2022/1979	N/A
Ozone Depleting Substances and F-gases							
42	Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006	L1502052014p105	N/A	N/A	N/A	Commission Implementing Decision 2020/1604, 2021/456, 2021/980 and 2023/2432	N/A
43	Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer	L28631102009p1	Consolidated 19.4.2017	N/A	N/A	N/A	N/A
Total Implementing/Delegated					43	0	4

Policy Area Summary: ANIMAL HEALTH & WELFARE

EU acts in scope: 26 directives and regulations.

Total EU tertiary acts since 1 January 2021: 486 implementing and delegated acts.

Change since last EU Law Tracker report: 1 secondary act and 62 tertiary acts.

ANIMAL HEALTH & WELFARE					EU (Secondary) Law	EU (Tertiary) Law
Animal Disease Control, Zoonosis Control						
44	Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies	L14731.5.2001 p.1	Consolidated: 1.1.2023	N/A	N/A	N/A
	Council Directive 77/91/EEC of 17 May 1977 introducing Community measures for the eradication of brucellosis, tuberculosis and leucosis in cattle. No longer in force, date of end of validity: 20.4.2021	L14511.6.1977 p.44	N/A	Repealed and replaced by Regulation (EU) 2016/429: Article 270	N/A	N/A
	Council Directive 78/52/EEC of 13 December 1977 establishing the Community criteria for national plans for the accelerated eradication of brucellosis, tuberculosis and enzootic leucosis in cattle. No longer in force, date of end of validity: 20.4.2021	L1519.1.1978 p.34	N/A	Repealed and replaced by Regulation (EU) 2016/429: Article 270	N/A	N/A
	Council Directive 2003/85/EC of 29 September 2003 on Community measures for the control of foot-and-mouth disease repealing Directive 85/511/EEC and Decisions 89/531/EEC and 91/665/EEC and amending Directive 92/46/EEC. No longer in force, date of end of validity: 20.4.2021	L30632.1.2003 p.1	N/A	Repealed and replaced by Regulation (EU) 2016/429: Article 270; and Regulation (EU) 2020/687	N/A	N/A
	Council Directive 2005/94/EC of 20 December 2005 on Community measures for the control of avian influenza and repealing Directive 92/40/EEC. No longer in force, date of end of validity: 20.4.2021	L1014.1.2006 p.16	N/A	Repealed and replaced by Regulation (EU) 2016/429: Article 270; and Regulation (EU) 2020/687	N/A	N/A
	Council Directive 2001/89/EC of 23 October 2001 on Community measures for the control of classical swine fever. No longer in force, date of end of validity: 20.4.2021	L316.1.17.2001 p.5	N/A	Repealed and replaced by Regulation (EU) 2016/429: Article 270; and Regulation (EU) 2020/687	N/A	N/A
	Council Directive 92/35/EEC of 29 April 1992 laying down control rules and measures to combat African horse sickness. No longer in force, date of end of validity: 20.4.2021	L15710.6.1992 p.19	N/A	Repealed and replaced by Regulation (EU) 2016/429: Article 270	N/A	N/A
	Council Directive 2002/60/EC of 27 June 2002 laying down specific provisions for the control of African swine fever and amending Directive 92/119/EEC as regards Teschen disease and African swine fever. No longer in force, date of end of validity: 20.4.2021	L19220.7.2002 p.27	N/A	Repealed and replaced by Regulation (EU) 2016/429: Article 270	N/A	N/A
45	Regulation (EC) No 2160/2003 of the European Parliament and of the Council of 17 November 2003 on the control of salmonella and other specified food-borne zoonotic agents	L32512.12.2003 p.1	Consolidated: 21.4.2021	N/A	N/A	N/A
	Council Directive 92/66/EEC of 14 July 1992 introducing Community measures for the control of Newcastle disease. No longer in force, date of end of validity: 20.4.2021	L2605.9.1992 p.1	N/A	Repealed and replaced by Regulation (EU) 2016/429: Article 270	N/A	N/A
	Council Directive 92/119/EEC of 17 December 1992 introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease. No longer in force, date of end of validity: 20.4.2021	L6215.3.1993 p.60	N/A	Repealed and replaced by Regulation (EU) 2016/429: Article 270	N/A	N/A
46	Directive 2003/99/EC of the European Parliament and of the Council of 17 November 2003 on the monitoring of zoonoses and zoonotic agents, amending Council Decision 90/424/EEC and repealing Council Directive 92/117/EEC	L32512.12.2003 p.31	Consolidated: 1.7.2013	N/A	N/A	N/A
	Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of bluetongue. No longer in force, date of end of validity: 20.4.2021	L32722.12.2000 p.74	N/A	Repealed and replaced by Regulation (EU) 2016/429: Article 270	N/A	N/A
47	Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law')	L6431.3.2016-1-208	Consolidated: 21.4.2021	N/A	25 Delegated and 320 Implementing since 1 Jan 2021	50
48	Commission Delegated Regulation (EU) 2020/687 of 17 December 2019 supplementing Regulation (EU) 2016/429 of the European Parliament and the Council, as regards rules for the prevention and control of certain listed diseases	L174.18.2020 p.61	Consolidated: 3.5.2023	N/A	N/A	N/A
Animal Identification						
	Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 5782/2003 and Directives 92/102/EEC and 94/432/EEC. No longer in force, date of end of validity: 20.4.2021	L5.1.2004 p.8	N/A	Repealed and replaced by Regulation (EU) 2016/429: Article 270	N/A	N/A
49	Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97	L20411.8.2000 p.1	Consolidated: 21.4.2021	N/A	N/A	N/A
	Council Directive 2008/71/EC of 15 July 2008 on the identification and registration of pigs. No longer in force, date of end of validity: 20.4.2021	L113.8.2008 p.31	N/A	Repealed and replaced by Regulation (EU) 2016/429: Article 270	N/A	N/A
Animal Welfare						
50	Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97	L19.1.2005 p.1	Consolidated: 14.12.2019	N/A	N/A	N/A
51	Council Regulation (EC) No 3254/91 of 4 November 1991 prohibiting the use of lighead traps in the Community and the introduction into the Community of pets and manufactured goods of certain wild animal species originating in countries which catch them by means of lighead traps or trapping methods which do not meet international humane trapping standards	L30811.11.1991 p.1	N/A	N/A	N/A	N/A
52	Regulation (EC) No 1007/2009 of the European Parliament and of the Council of 16 September 2009 on trade in seal products	L266.31.10.2009 p.16	Consolidated: 18.10.2015	N/A	N/A	N/A
53	Regulation (EC) No 1523/2007 of the European Parliament and of the Council of 11 December 2007 banning the placing on the market and the import to, or export from, the Community of cat and dog fur, and products containing such fur	L343.27.12.2007 p.1	N/A	N/A	N/A	N/A
54	Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing	L303.18.11.2009 p.1	Consolidated: 14.12.2019	N/A	N/A	N/A
55	Council Directive 83/129/EEC of 28 March 1983 concerning the importation into Member States of skins of certain seal pups and products derived therefrom	L81.9.6.1983 p.10	Consolidated: 15.6.1983	N/A	N/A	N/A
GMOs - Marketing & Cultivation						
56	Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/269/EEC - Commission Declaration	L106.17.4.2001 p.1-16	Consolidated: 27.3.2021	N/A	N/A	N/A
57	Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC	L248.18.10.2003 p.24-28	Consolidated: 26.7.2018	N/A	N/A	N/A
58	Regulation (EC) No 1946/2003 of the European Parliament and of the Council of 15 July 2003 on transboundary movements of genetically modified organisms	L287.5.11.2003 p.1-10	N/A	N/A	N/A	N/A
GMOs						
59	Directive 2009/41/EC of the European Parliament and of the Council of 6 May 2009 on the contained use of genetically modified micro-organisms	L125.21.5.2009 p.75-97	N/A	N/A	N/A	N/A
Zootech						
60	Regulation (EU) 2016/1012 of the European Parliament and of the Council of 8 June 2016 on zootechnical and genealogical conditions for the breeding, trade and entry into the Union of purebred breeding animals, hybrid breeding pigs and the germinal products thereof and amending Regulation (EU) No 652/2014, Council Directives 89/608/EEC and 90/415/EEC and repealing certain acts in the area of animal breeding ('Animal Breeding Regulation')	L171.29.6.2016 p.65-143	N/A	N/A	Commission Implementing Regulation (EU) 2020/602, 2021/761, 2021/963, 2022/7077	N/A

Organic Production Regulation							
61	Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EC) No 2092/91	1189 20 7 2007 o 1 21	Consolidated 1 1 2022	N/A	N/A	N/A	N/A
	Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control: date of end of validity 31.12.2023	1250 18 9 2008 o 1 34	Consolidated 1 1 2022	Repealed by Commission Implementing Regulation (EU) 2022/1165: Article 11	N/A	1	N/A
	Commission Regulation (EC) No 710/2009 of 5 August 2009 amending Regulation (EC) No 889/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007, as regards laying down detailed rules on organic aquaculture animal and seaweed production: date of end of validity 31.12.2021	1204 8 8 2009 o 15 34	N/A	Implicitly Repealed by Commission Implementing Regulation (EU) 2021/1165: Article 11	N/A	N/A	N/A
Official Controls							
62	Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 12005 and (EC) No 1099/2009 and Council Directives 88/58/EEC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation)	105 7 6 2017 o 1	Consolidated 28 1 2021	N/A	82 Commission Implementing Regulations and 31 Commission Delegated Regulations since 1 January 2021	N/A	8
	Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules - No longer in force, date of end of validity 13.12.2019	1165 30 4 2004 o 1	N/A	Repealed and Replaced by Regulation (EU) 2017/625: Article 146	N/A	N/A	N/A
	Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption - No longer in force, date of end of validity 13.12.2019	1119 30 4 2004 o 206	N/A	Repealed and Replaced by Regulation (EU) 2017/625: Article 146	N/A	N/A	N/A
	Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC - No longer in force, date of end of validity 13.12.2019	1248 21 9 1991 o 56	N/A	Repealed and Replaced by Regulation (EU) 2017/625: Article 146	N/A	N/A	N/A
	Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries - No longer in force, date of end of validity 13.12.2019	124 30 1 1998 o 6	N/A	Repealed and Replaced by Regulation (EU) 2017/625: Article 146	N/A	N/A	N/A
	Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market - No longer in force, date of end of validity 13.12.2019	124 18 6 1990 o 29	N/A	Repealed and Replaced by Regulation (EU) 2017/625: Article 146	N/A	N/A	N/A
Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market - No longer in force, date of end of validity 13.12.2019	105 10 12 1989 o 13	N/A	Repealed and Replaced by Regulation (EU) 2017/625: Article 146	N/A	N/A	N/A	
Fisheries & Aquaculture							
63	Commission Regulation (EC) No 3703/85 of 23 December 1985 laying down detailed rules for applying the common marketing standards for certain fresh or chilled fish	1311 28 12 1985 o 83	Consolidated 28 7 2006	N/A	N/A	N/A	N/A
64	Council Regulation (EEC) No 2136/89 of 21 June 1989 laying down common marketing standards for preserved sardines and trade descriptions for preserved sardines and sardine-type products	1212 27 7 1989 o 70	Consolidated 31 12 2006	N/A	N/A	N/A	N/A
65	Council Regulation (EEC) No 1536/92 of 9 June 1992 laying down common marketing standards for preserved tuna and bonito	1169 17 6 1992 o 1	N/A	N/A	N/A	N/A	N/A
66	Council Regulation (EC) No 2406/96 of 26 November 1996 laying down common marketing standards for certain fishery products	1334 21 12 1996 o 1	Consolidated 2 6 2006	N/A	N/A	N/A	N/A
	Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms, insofar as it concerns provisions relating to minimum sizes of marine organisms - No longer in force, date of end of validity 13.8.2019	1125 27 4 1998 o 1	N/A	Repealed and replaced by Regulation (EU) 2019/1241: Article 39	N/A	N/A	N/A
67	Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005	1168 25 7 2019 o 105	Consolidated 7 1 2023	N/A	Commission Implementing Regulation (EU) 2020/947; Commission Delegated Regulation (EU) 2023/56, (EU) 2022/2587, (EU) 2022/2588, (EU) 2022/1357, (EU) 2022/826, (EU) 2022/2024, (EU) 2022/200, (EU) 2022/199, (EU) 2021/2324, (EU) 2021/1473, (EU) 2021/1160	N/A	N/A
Fisheries & Aquaculture Marketing							
68	Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000, insofar as it concerns provisions relating to marketing standards and consumer information	1334 28 12 2013 o 1	Consolidated 25 6 2020	N/A	Latent: 12 March 2018	N/A	N/A
	Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals - No longer in force, date of end of validity 20 04 2021	1328 24 11 2006 o 14	Consolidated 6 3 2014	Repealed and replaced by Regulation (EU) 2016/429: Article 270	N/A	N/A	N/A
69	Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC, insofar as it concerns provisions relating to marketing standards for fishery and aquaculture products	1338 28 12 2013 o 22	Consolidated 1 1 2023	N/A	Commission Delegated Regulation (EU) 2021/2064, (EU) 2021/2065, (EU) 2022/204, (EU) 2022/824, (EU) 2022/952, (EU) 2022/2287, (EU) 2022/2564, (EU) 2023/240, (EU) 2023/1609, (EU) 2023/1697, (EU) 2023/2460, (EU) 2023/2918	N/A	4
Total Implementing/Delegated					466	1	62

Policy Area Summary: PLANT HEALTH

EU acts in scope: 17 directives and regulations.

Total EU tertiary acts since 1 January 2021: 269 implementing and delegated acts.

Change since last EU Law Tracker report: 0 secondary and 43 tertiary acts.

PLANT HEALTH							EU (Secondary) Law	EU (Tertiary) Law
Plant Health								
70	Regulation (EU) 2016/2031 of the European Parliament and of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/31/EC and 2007/33/EC	L317 23.11.2016 p.4	Consolidated: 14.12.2019	N/A	69 Commission Implementing Regulations and 2 Commission Delegated Regulations	N/A	10	
71	Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein	L61 13.1997 p.1	Consolidated: 20.5.2023	N/A	N/A	N/A	N/A	
Pesticides, Biocides								
72	Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC	L209 24.11.2009 p.1	Consolidated: 21.11.2022	N/A	N/A	N/A	N/A	
73	Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC	L20 16.3.2005 p.1	Consolidated: 21.10.2023	N/A	N/A	Consolidated	N/A	
74	Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products	L167 27.6.2012 p.1	Consolidated: 15.4.2022	N/A	193 Commission Implementing Regulations and 5 Commission Delegated Regulations	N/A	33	
Plant Reproductive Material								
75	Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed	L125 11.7.1966 p.2309		N/A	N/A	N/A	N/A	
76	Council Directive 68/193/EEC of 9 April 1968 on the marketing of material for the vegetative propagation of the vine	L43 17.6.1968 p.15	Consolidated: 16.2.2020	N/A	N/A	N/A	N/A	
77	Council Directive 1999/105/EC of 22 December 1999 on the marketing of forest reproductive material	L11 15.1.2000 p.17		N/A	N/A	N/A	N/A	
78	Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species	L193 20.7.2002 p.4	Consolidated: 18.4.2004	N/A	N/A	N/A	N/A	
79	Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed	L125 11.7.1966 p.2788	Consolidated: 1.9.2022	N/A	N/A	N/A	N/A	
80	Council Directive 98/54/EC of 20 July 1998 on the marketing of propagating material of ornamental plants	L226 13.8.1998 p.16	Consolidated: 30.6.2014	N/A	N/A	N/A	N/A	
81	Council Directive 2008/72/EC of 15 July 2008 on the marketing of vegetable propagating and planting material, other than seed	L205 18.8.2008 p.28	Consolidated: 16.8.2022	N/A	N/A	N/A	N/A	
82	Council Directive 2002/54/EC of 13 June 2002 on the marketing of beet seed	L193 20.7.2002 p.12	Consolidated: 1.9.2022	N/A	N/A	N/A	N/A	
83	Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed	L193 20.7.2002 p.31	Consolidated: 1.9.2022	N/A	N/A	N/A	N/A	
84	Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes	L193 20.7.2002 p.60	Consolidated: 16.2.2020	N/A	N/A	N/A	N/A	
85	Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants	L193 20.7.2002 p.74	Consolidated: 1.9.2022	N/A	N/A	N/A	N/A	
86	Council Directive 2008/90/EC of 29 September 2008 on the marketing of fruit plant propagating material and fruit plants intended for fruit production	L278 10.2008 p.8	Consolidated: 13.10.2022	N/A	N/A	N/A	N/A	
					Total Implementing / Delegated	269	0	43

Policy Area Summary: EQUALITY, NON-DISCRIMINATION, AND HUMAN RIGHTS

EU acts in scope: 7 directives and regulations.

Total EU tertiary acts since 1 January 2021: 0 implementing and delegated acts.

Change since last EU Law Tracker report: 0 secondary and 0 tertiary acts.

EQUALITY, NON-DISCRIMINATION, AND HUMAN RIGHTS							EU (Secondary) Law	EU (Tertiary) Law
Voting Rights in Local Government Elections								
87	Article 20(2)(b) TFEU and Article 22 TEU	C 326 26.10.2012 p.47-380		N/A	N/A	N/A	N/A	
Equal Treatment Legislation								
88	Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services	L373 21.12.2004 p.37-43		N/A	N/A	N/A	N/A	
89	Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation	L204 26.7.2006 p.23-36		N/A	N/A	N/A	N/A	
90	Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin	L180 19.7.2000 p.22-26		N/A	N/A	N/A	N/A	
91	Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation	L303 27.12.2000 p.16-22		N/A	N/A	N/A	N/A	
92	Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC	L180 15.7.2010 p.1-6		N/A	N/A	N/A	N/A	
93	Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security	L 6.10.1.1978 p.24-25		N/A	N/A	N/A	N/A	
					Total Implementing / Delegated	0	0	0

Policy Area Summary: SOCIAL PROTECTION

EU acts in scope: 3 directives and regulations.

Total EU tertiary acts since 1 January 2021: 0 implementing and delegated acts.

Change since last EU Law Tracker report: 0 secondary and 0 tertiary acts.

SOCIAL PROTECTION							EU (Secondary) Law	EU (Tertiary) Law
EU Social Security Coordination								
94	Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems	L166 30.4.2004 p.1-123	Consolidated: 31.7.2019	N/A	N/A	N/A	N/A	
95	Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems	L284 30.10.2009 p.1-42	Consolidated: 1.1.2018	N/A	N/A	N/A	N/A	
96	Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community	L149 5.7.1971 p.2-50	Consolidated: 1.5.2010	N/A	N/A	N/A	N/A	
	Regulation (EEC) No 574/72 of the Council of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community; date of end of validity 30.4.2010	L74 27.3.1972 p.1-83	Consolidated: 2.3.2009	Repealed and Replaced by Regulation (EC) No 987/2009: Article 96	N/A	N/A	N/A	
					Total Implementing / Delegated	0	0	0

Policy Area Summary: FOOD STANDARDS

EU acts in scope: 31 directives and regulations.

Total EU tertiary acts since 1 January 2021: 150 implementing and delegated acts.

Change since last EU Law Tracker report: 1 secondary act and 46 tertiary acts.

FOOD STANDARDS						EU (Secondary) Law	EU (Tertiary) Law	
Food Compositional Standards and Labelling								
97	Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety	1311.2.2002.o.1	Consolidated: 1.7.2022	N/A	N/A	N/A	N/A	
98	Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1824/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004	1301.22.11.2011.o.18	Consolidated: 1.1.2018	N/A	Commission Implementing Regulation (EU) 2021/334, (EU) 2021/945, (EU) 2022/100	N/A	N/A	
99	Directive 2011/91/EU of the European Parliament and of the Council of 13 December 2011 on indications or marks identifying the lot to which a foodstuff belongs	1334.16.12.2011	N/A	N/A	N/A	N/A	N/A	
100	Regulation (EC) No 1331/2008 of the European Parliament and of the Council of 16 December 2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings	1354.31.12.2008.o.1	Consolidated: 27.3.2021	N/A	N/A	N/A	N/A	
101	Regulation (EC) No 1332/2008 of the European Parliament and of the Council of 16 December 2008 on food enzymes and amending Council Directive 83/417/EEC, Council Regulation (EC) No 1493/1999, Directive 2000/13/EC, Council Directive 2001/112/EC and Regulation (EC) No 258/97	1354.31.12.2008.o.2	Consolidated: 9.12.2012	N/A	N/A	N/A	N/A	
102	Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives	1354.31.12.2008.o.10	Consolidated: 29.10.2023	N/A	N/A	Consolidated	N/A	
103	Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods and amending Council Regulation (EEC) No 1601/91, Regulations (EC) No 2232/96 and (EC) No 110/2008 and Directive 2000/13/EC	1354.31.12.2008.o.31	Consolidated: 21.3.2023	N/A	N/A	N/A	N/A	
104	Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements	1483.12.7.2002.o.51	Consolidated: 30.9.2022	N/A	N/A	N/A	N/A	
105	Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods	1404.30.12.2006.o.25	Consolidated: 22.6.2023	N/A	N/A	N/A	N/A	
106	Regulation (EC) No 2065/2003 of the European Parliament and of the Council of 10 November 2003 on smoke flavourings used or intended for use in or on foods	1309.28.11.2003.o.1	Consolidated: 27.3.2021	N/A	N/A	N/A	N/A	
107	Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food	13713.7.1993.o.1	Consolidated: 7.8.2009	N/A	N/A	N/A	N/A	
108	Regulation (EU) 2015/2283 of the European Parliament and of the Council of 25 November 2015 on novel foods, amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council and repealing Regulation (EC) No 258/97 of the European Parliament and of the Council and Commission Regulation (EC) No 1852/2001	1327.31.12.2015.o.1	Consolidated: 27.3.2021	N/A	72 Commission Implementing Regulations	N/A	10	
109	Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009	1481.29.6.2013.o.35	Consolidated: 21.3.2023	N/A	Commission Delegated Regulations (EU) 2021/571, (EU) 2021/572, (EU) 2021/1041, (EU) 2021/1040, (EU) 2022/519, (EU) 2022/1182, (EU) 2023/439, (EU) 2023/589	N/A	N/A	
110	Directive 1999/4/EC of the European Parliament and of the Council of 22 February 1999 relating to coffee extracts and chicory extracts	166.13.3.1999.o.26	Consolidated: 18.11.2013	N/A	N/A	N/A	N/A	
111	Directive 2000/36/EC of the European Parliament and of the Council of 23 June 2000 relating to cocoa and chocolate products intended for human consumption	14973.8.2000.o.19	Consolidated: 18.11.2013	N/A	N/A	N/A	N/A	
112	Council Directive 2001/110/EC of 20 December 2001 relating to honey	10102.1.2002.o.47	Consolidated: 23.6.2014	N/A	N/A	N/A	N/A	
113	Council Directive 2001/111/EC of 20 December 2001 relating to certain sugars intended for human consumption	10102.1.2002.o.53	Consolidated: 18.11.2013	N/A	N/A	N/A	N/A	
114	Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors	135735.6.2011.o.1	Consolidated: 24.10.2022	N/A	N/A	N/A	N/A	
115	Council Directive 2001/112/EC of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption	10102.1.2002.o.58	Consolidated: 5.10.2014	N/A	N/A	N/A	N/A	
116	Council Directive 2001/113/EC of 20 December 2001 relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption	10102.1.2002.o.67	Consolidated: 18.11.2013	N/A	N/A	N/A	N/A	
117	Council Directive 2001/114/EC of 20 December 2001 relating to certain partly or wholly dehydrated preserved milk for human consumption	145.17.1.2002.o.19	Consolidated: 18.11.2013	N/A	N/A	N/A	N/A	
118	Directive (EU) 2015/2203 of the European Parliament and of the Council of 25 November 2015 on the approximation of the laws of the Member States relating to caseins and caseinates intended for human consumption and repealing Council Directive 83/417/EEC	1314.12.2015.o.1	N/A	N/A	N/A	N/A	N/A	
Nutrition Labelling, Composition and Standards								
119	Regulation (EC) 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods	1406.30.12.2006.o.2	Consolidated: 13.12.2014	N/A	N/A	N/A	N/A	
Food Hygiene								
120	Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin	1139.30.4.2004.o.55	Consolidated: 15.2.2023	N/A	N/A	N/A	N/A	
121	Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs	1139.30.4.2004.o.1	Consolidated: 24.3.2021	N/A	N/A	N/A	N/A	
122	Council Directive 89/108/EEC of 21 December 1988 on the approximation of the laws of the Member States relating to quick-frozen foodstuffs for human consumption	140.11.2.1989.o.34	Consolidated: 1.7.2013	N/A	N/A	N/A	N/A	
Regulation of Tobacco and Related Products								
123	Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC	1127.23.4.2014.o.138	Consolidated: 23.10.2023	N/A	Commission Delegated Directive (EU) 2022/2100 and Commission Implementing Regulation (EU) 2023/448	Consolidated	N/A	
124	Directive 2003/53/EC of the European Parliament and of the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products	1152.20.6.2003.o.16.19	Consolidated: 20.6.2003	N/A	N/A	N/A	N/A	
Organic Products								
125	Council Regulation (EC) No 854/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91. Repealed by	1189.20.7.2007.o.1	Consolidated: 1.1.2022	Repealed and Replaced by Regulation (EU) 2018/848: Article 56 [but with partial continued application]	N/A	1	N/A	
126	Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 854/2007	1150.14.6.2018.o.1.92	Consolidated: 21.7.2023	N/A	34 Commission Implementing Regulations and 31 Delegated Regulations	N/A	4	
127	Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 854/2007	1150.14.6.2018.o.1	Consolidated: 21.7.2023	N/A	31 Commission Delegated Regulations and 34 Commission Implementing Regulations	N/A	32	
					Total Implementing / Delegated	150	1	46

Policy Area Summary: CHEMICALS

EU acts in scope: 6 directives and regulations.

Total EU tertiary acts since 1 January 2021: 15 implementing and delegated acts.

Change since last EU Law Tracker report: 0 secondary and 2 tertiary acts.

CHEMICALS						EU (Secondary) Law	EU (Tertiary) Law
Fertiliser Regulation							
128	Regulation (EC) No 2003/2003 of the European Parliament and of the Council of 13 October 2003 relating to fertilisers: date of end of validity 15.7.2022	L 304 21.11.2003 p.1-194	Consolidated: 20.6.2021	Repealed and Replaced by Regulation (EU) 2019/1009: Article 51	N/A	N/A	N/A
	Regulation (EU) 2019/1009 of the European Parliament and of the Council of 5 June 2019 laying down rules on the making available on the market of EU fertilising products and amending Regulations (EC) No 1069/2009 and (EC) No 1107/2009 and repealing Regulation (EC) No 2003/2003	L 170 25.6.2019 p.1-114	Consolidated: 16.3.2022	N/A	Commission Delegated Regulation (EU) 2021/1768, (EU) 2021/2086, (EU) 2021/2087, (EU) 2021/2088, (EU) 2022/973, (EU) 2022/1171, (EU) 2022/1519, (EU) 2023/409	N/A	N/A
Good Laboratory Practice							
129	Directive 2004/10/EC of the European Parliament and of the Council of 11 February 2004 on the inspection and verification of good laboratory practice (GLP)	L 50 20.2.2004 p.28-43	Consolidated: 26.7.2019	N/A	N/A	N/A	N/A
130	Directive 2004/10/EC of the European Parliament and of the Council of 11 February 2004 on the harmonisation of laws, regulations and administrative provisions relating to the application of the principles of good laboratory practice and the verification of their applications for tests on chemical substances	L 50 20.2.2004 p.44-59	Consolidated: 20.4.2009	N/A	N/A	N/A	N/A
REACH							
131	Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC	L 396 30.12.2006 p.1	Consolidated: 1.12.2023	N/A	N/A	Consolidated	N/A
Persistent Organic Pollutants							
132	Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants	L 169 25.6.2019 p.45	Consolidated: 28.8.2023	N/A	Commission Delegated Regulation (EU) 2023/866, (EU) 2022/2291 and (EU) 2023/1608	N/A	1
Hazardous Chemicals							
133	Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals	L 201 27.7.2012 p.60	Consolidated: 1.11.2023	N/A	Commission Implementing Decision C/2021/6140 and C/2023/4459; Commission Delegated Regulation (EU) 2022/643 and (EU) 2023/1656	N/A	1
Total Implementing / Delegated						15	2

Policy Area Summary: ECONOMY & TRADE

EU acts in scope: 6 directives and regulations.

Total EU tertiary acts since 1 January 2021: 19 implementing and delegated acts.

Change since last EU Law Tracker report: 0 secondary and 7 tertiary acts.

ECONOMY & TRADE						EU (Secondary) Law	EU (Tertiary) Law
Late Payment - Commercial Transactions							
134	Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions	L 48 23.2.2011 p.1-10	N/A	N/A	N/A	N/A	N/A
Mutual Recognition of Professional Qualifications - Cross-Sectoral							
135	Directive 2005/76/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications	L 255 30.9.2005 p.22-142	Consolidated: 9.10.2023	N/A	N/A	Consolidated	N/A
Services Directive							
136	Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market	L 376 27.12.2006 p.38-68	N/A	N/A	N/A	N/A	N/A
Public Procurement							
137	Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC Text with EEA relevance	L 94 28.3.2014 p.65-242	Consolidated: 1.1.2024	N/A	Commission Delegated Regulation (EU) 2021/1952 and (EU) 2023/2495 Commission Implementing Regulation (EU) 2022/2303 and (EU) 2023/2884	N/A	2
138	Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC	L 94 28.3.2014 p.243-374	Consolidated: 1.1.2024	N/A	Commission Implementing Decision (EU) 2022/418, (EU) 2022/1286, (EU) 2022/1296, (EU) 2022/1376, (EU) 2022/2303, (EU) 2023/264, (EU) 2023/1228, (EU) 2023/1978, (EU) 2023/2884; Commission Delegated Regulation (EU) 2021/1953, (EU) 2023/1496	N/A	3
139	Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts	L 94 28.3.2014 p.1-64	Consolidated: 1.1.2024	N/A	Commission Delegated Regulation (EU) 2021/1951 and (EU) 2023/2497 and Commission Implementing Regulation (EU) 2022/2303 and (EU) 2023/2884	N/A	2
Total Implementing / Delegated						19	7

Policy Area Summary: POLICE & JUDICIAL COOPERATION

EU acts in scope: 51 directives and regulations.

Total EU tertiary acts since 1 January 2021: 3 implementing and delegated acts.

Change since last EU Law Tracker report: 0 secondary and 0 tertiary acts.

POLICE & JUDICIAL COOPERATION						EU (Secondary) Law	EU (Tertiary) Law
European Judicial Network							
140	Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network	L 349 24.12.2008 p.130-134	N/A	N/A	N/A	N/A	N/A
Joint Action on Organised Crime							
141	97/827/JHA: Joint Action of 5 December 1997 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, establishing a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organized crime	L 344 15.12.1997 p.7-9	N/A	N/A	N/A	N/A	N/A
False and Authentic Documents Online (FADO)							
142	98/700/JHA: Joint Action of 3 December 1998 adopted by the Council on the basis of Article K.3 of the Treaty on European Union concerning the setting up of a European Image Archiving System (FADO)	L 333 9.12.1998 p.4-7	N/A	N/A	N/A	N/A	N/A
European Police College (CEPOL)							
143	Council Decision 2005/881/JHA of 20 September 2005 establishing the European Police College (CEPOL) and repealing Decision 2000/820/JHA: date of end of validity 1.7.2016	L 356 1.10.2005 p.63-70	Consolidated: 1.9.2014	Repealed and Replaced by Regulation (EU) 2015/2219: Article 40	N/A	N/A	N/A
	Regulation (EU) 2015/2219 of the European Parliament and of the Council of 25 November 2015 on the European Union Agency for Law Enforcement Training (CEPOL) and replacing and repealing Council Decision 2005/881/JHA	L 319 4.12.2015 p.1-20	N/A	N/A	N/A	N/A	N/A

	EU-JISA							
	Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice: date of end of validity 10.12.2018	L 285 1.11.2011 p.1-17	Consolidated: 9.10.2018	Repealed and Replaced by Regulation (EU) 2018/1726: Article 57	N/A		N/A	N/A
144	Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-JISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011	L 295 21.11.2018 p.99-137	Consolidated: 6.6.2023	N/A	N/A		N/A	N/A
	EUROPOL							
145	Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/737/JHA, 2009/834/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA	L 135 24.5.2016 p.53-114	Consolidated: 28.6.2022	N/A	N/A		N/A	N/A
	EUROJUST							
146	Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA	L 295 21.11.2018 p.138-183	Consolidated: 31.10.2023	N/A		Latest 23 July 2020	Consolidated	N/A
	European Criminal Records Information System (ECRIS)							
147	Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States	L 93 7.4.2009 p.23-32	Consolidated: 27.6.2019	N/A	N/A		N/A	N/A
	Prüm Framework (data sharing)							
148	Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime	L 210 6.8.2008 p.12-72	N/A	N/A	N/A		N/A	N/A
149	Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime	L 210 6.8.2008 p.1-11	N/A	N/A	N/A		N/A	N/A
	Schengen Information System (SIS II)							
	Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II): date of end of validity 6.3.2023	L 205 7.8.2007 p.63-84	Consolidated: 28.12.2020	Repealed and Replaced by Regulation (EU) 2018/1862: Article 78	N/A		N/A	N/A
150	Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU	L 312 7.12.2018 p.56-106	Consolidated: 31.12.2023	N/A		Commission Implementing Decision (EU) 2023/201, (EU) 2022/2206, (EU) 2021/31	Consolidated	N/A
	Minimum Standards Legislation - Cybercrime							
151	Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems and replacing Council Framework Decision 2005/222/JHA	L 218 14.8.2013 p.8-14	N/A	N/A	N/A		N/A	N/A
	Minimum Standards Legislation - Human Trafficking							
152	Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA	L 101 15.4.2011 p.1-11	N/A	N/A	N/A		N/A	N/A
	Asset Recovery Offices							
153	Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime	L 332 18.12.2007 p.103-105	N/A	N/A	N/A		N/A	N/A
	Cooperation Legislation - Child Sexual Exploitation							
154	Council Decision of 29 May 2000 to combat child pornography on the Internet	L 138 6.6.2000 p.1-4	N/A	N/A	N/A		N/A	N/A
	Schengen Convention - Law Enforcement Cooperation (Article 40)							
155	The Schengen acquis - Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders	L 210 6.8.2008 p.12-72	N/A	N/A	N/A		N/A	N/A
	European Investigation Order							
156	Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters	L 130 1.5.2014 p.1-36	Consolidated: 13.3.2022	N/A	N/A		N/A	N/A
	Joint Investigation Teams							
157	Council Framework Decision of 13 June 2002 on joint investigation teams	L 162 20.6.2002 p.1-3	Consolidated: 10.3.2022	N/A	N/A		N/A	N/A
	Mutual Recognition of Assets Freezing							
	Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence: date of end of validity 18.12.2020	L 196 2.8.2003 p.45-55	Consolidated: 2.8.2020	Repealed and Replaced by Regulation (EU) 2018/1805	N/A		N/A	N/A
	Mutual Recognition of Confiscation Orders							
158	Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders: date of end of validity 18.12.2020	L 328 24.11.2006 p.59-78	Consolidated: 28.3.2009	Repealed and Replaced by Regulation (EU) 2018/1805	N/A		N/A	N/A
	Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders	L 303 28.11.2018 p.1-38	N/A	N/A	N/A		N/A	N/A
	Cross-Border Data Exchange 'Swedish Initiative'							
159	Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union	L 386 29.12.2006 p.89-100	Consolidated: 30.12.2006	N/A	N/A		N/A	N/A
	Cooperation on Football Disorder							
160	2002/348/JHA: Council Decision of 25 April 2002 concerning security in connection with football matches with an international dimension	L 121 8.5.2002 p.1-3	Consolidated: 16.6.2007	N/A	N/A		N/A	N/A
	Forensic Service Providers - Mutual Recognition							
161	Council Framework Decision 2009/905/JHA of 30 November 2009 on accreditation of forensic service providers carrying out laboratory activities	L 322 9.12.2009 p.14-16	N/A	N/A	N/A		N/A	N/A
	Passenger Name Records (PNR) Data							
162	Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime	L 119 6.5.2016 p.132-149	N/A	N/A	N/A		Latest: 28 April 2017	N/A
	Applicable Law in Contracts and Non-Contractual Obligations							
163	Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I)	L 177 4.7.2008 p.6-16	Consolidated: 24.7.2008	N/A	N/A		N/A	N/A
164	Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II)	L 199 31.7.2007 p.40-60	N/A	N/A	N/A		N/A	N/A
	Legal Mediation - Cross-Border							
165	Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters	L 136 24.5.2008 p.3-8	N/A	N/A	N/A		N/A	N/A
	Civil and Commercial Law - Jurisdiction, Recognition and Enforcement							
166	Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters	L 351 20.12.2012 p.1-32	Consolidated: 26.7.2015	N/A		Latest: 26 November 2014	N/A	N/A
	Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings: date of end of validity 26.6.2017	L 160 30.6.2000 p.1-18	Consolidated: 12.10.2016	Repealed and Replaced by Regulation (EU) 2015/848: Article 91	N/A		N/A	N/A
167	Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings	L 141 5.6.2015 p.10-72	Consolidated: 9.1.2022	N/A		Latest: 4 June 2019	N/A	N/A
	Family Law - Jurisdiction, Recognition and Enforcement							
	Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000: date of end of validity 31.7.2022	L 338 23.12.2003 p.1-29	Consolidated: 1.3.2005	Repealed and Replaced by Council Regulation (EU) 2019/1111: Article 104	N/A		N/A	N/A
168	Regulation (EU) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction	L 178 2.7.2019 p.1-115	N/A	N/A	N/A		N/A	N/A
169	Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations	L 7 10.1.2009 p.1-79	Consolidated: 31.12.2018	N/A	N/A		N/A	N/A
170	Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters	L 181 29.6.2013 p.6-12	N/A	N/A	N/A		Latest: 2 September 2014	N/A
	Legal Aid - Cross-Border Cases							
171	Council Directive 2002/98/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes	L 26 31.1.2003 p.41-47	Consolidated: 31.1.2003	N/A	N/A		N/A	N/A

Service of Documents & Taking Evidence							
172	Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000	L 324 10.12.2007 p.79-120	Consolidated: 1.7.2013	N/A	N/A	N/A	N/A
173	Council Regulation (EC) No 1206/2003 of 28 May 2003 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters	L 174 27.6.2003 p.1-24	Consolidated: 4.12.2008	N/A	N/A	N/A	N/A
174	2001/470/EC Council Decision of 28 May 2001 establishing a European Judicial Network in civil and commercial matters	L 174 27.6.2001 p.25-31	Consolidated: 1.1.2011	N/A	N/A	N/A	N/A
Civil and Commercial Law - Small Claims, Enforcement and Order for Payment							
175	Regulation (EU) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation (EC) No 861/2007 establishing a European Small Claims Procedure and Regulation (EC) No 1896/2006 creating a European order for payment procedure	L 341 24.12.2015 p.1-13	N/A	N/A	N/A	N/A	N/A
176	Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure	L 199 31.7.2007 p.1-22	Consolidated: 14.7.2017	N/A	N/A	N/A	N/A
177	Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims	L 143 30.4.2004 p.15-30	Consolidated: 26.10.2022	N/A	N/A	N/A	N/A
178	Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure	L 399 30.12.2006 p.1-32	Consolidated: 14.7.2017	N/A	N/A	N/A	N/A
Child Sexual Exploitation - Minimum Standards Measures							
179	Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA	L 335 17.12.2011 p.1-14	Consolidated: 17.12.2011	N/A	N/A	N/A	N/A
Mutual Recognition of Criminal Court Judgments - Cross-Border Cooperation							
180	Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union	L 357 5.12.2008 p.27-46	Consolidated: 28.3.2009	N/A	N/A	N/A	N/A
181	Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order	L 338 21.12.2011 p.2-18	N/A	N/A	N/A	N/A	N/A
182	Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention	L 294 11.11.2009 p.28-60	N/A	N/A	N/A	N/A	N/A
183	Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties	L 78 22.3.2005 p.16-30	Consolidated: 28.3.2009	N/A	N/A	N/A	N/A
184	Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims	L 201 6.8.2004 p.15-18	N/A	N/A	N/A	N/A	N/A
Procedural Rights - Minimum Standards							
185	Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings	L 142 1.6.2012 p.1-10	N/A	N/A	N/A	N/A	N/A
186	Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings	L 280 26.10.2010 p.1-7	N/A	N/A	N/A	N/A	N/A
Legal Services - Provision							
187	Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained	L 77 14.3.1998 p.36-43	Consolidated: 1.7.2013	N/A	N/A	N/A	N/A
188	Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services	L 78 26.3.1977 p.17-18	Consolidated: 1.7.2013	N/A	N/A	N/A	N/A
Sentencing - Accounting for Convictions							
189	Council Framework Decision 2008/675/JHA of 24 July 2008 on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings	L 220 15.8.2008 p.32-34	N/A	N/A	N/A	N/A	N/A
Victims Rights - Minimum Standards							
190	Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA	L 315 14.11.2012 p.57-73	N/A	N/A	N/A	N/A	N/A
				Total Implementing / Delegated	0	0	0

Policy Area Summary: PUBLIC HEALTH

EU acts in scope: 15 directives and regulations.

Total EU tertiary acts since 1 January 2021: 2 implementing and delegated acts.

Change since last EU Law Tracker report: 0 secondary and 0 tertiary acts.

PUBLIC HEALTH							
Public Health Protection							
	Decision No 1082/2013/EU of the European Parliament and of the Council of 22 October 2013 on serious cross-border threats to health and repealing Decision No 2119/98/EC; date of end of validity: 25.12.2022	L 292 5.11.2013 p.1-15	Consolidated: 5.11.2013	N/A	Commission Implementing Decision (EU) 2021/858, (EU) 2021/1212	N/A	N/A
191	Regulation (EU) 2022/2371 of the European Parliament and of the Council of 23 November 2022 on serious cross-border threats to health and repealing Decision No 1082/2013/EU	L 314 6.12.2022 p.29-63	N/A	N/A	Commission Implementing Regulation (EU) 2023/1808	N/A	1
192	Regulation (EC) No 853/2004 of the European Parliament and of the Council of 21 April 2004 establishing a European Centre for disease prevention and control	L 142 30.4.2004 p.1-11	Consolidated: 26.12.2022	N/A	N/A	N/A	N/A
Blood Safety & Quality							
193	Directive 2002/98/EC of the European Parliament and of the Council of 27 January 2003 setting standards of quality and safety for the collection, testing, processing, storage and distribution of human blood and blood components and amending Directive 2001/83/EC	L 33 8.2.2003 p.10-40	Consolidated: 7.8.2009	N/A	N/A	N/A	N/A
194	Commission Directive 2004/33/EC of 22 March 2004 implementing Directive 2002/98/EC of the European Parliament and of the Council as regards certain technical requirements for blood and blood components	L 91 30.3.2004 p.25-30	Consolidated: 9.1.2015	N/A	N/A	N/A	N/A
195	Commission Directive 2005/61/EC of 30 September 2005 implementing Directive 2002/98/EC of the European Parliament and of the Council as regards traceability requirements and notification of serious adverse reactions and events	L 256 1.10.2005 p.32-50	N/A	N/A	N/A	N/A	N/A
196	Commission Directive 2005/62/EC of 30 September 2005 implementing Directive 2002/98/EC of the European Parliament and of the Council as regards Community standards and specifications relating to a quality system for blood establishments	L 256 1.10.2005 p.41-48	Consolidated: 15.8.2016	N/A	N/A	N/A	N/A
Organs, Tissues and Cells							
197	Council Directive 2010/45/EU of the European Parliament and of the Council of 7 July 2010 on standards of quality and safety of human organs intended for transplantation	L 207 6.8.2010 p.14-29	Consolidated: 6.8.2010	N/A	Latest: 9 October 2012	N/A	N/A
198	Commission Implementing Directive 2012/25/EU of 9 October 2012 laying down information procedures for the exchange, between Member States, of human organs intended for transplantation	L 275 10.10.2012 p.27-32	N/A	N/A	N/A	N/A	N/A
199	Directive 2004/23/EC of the European Parliament and of the Council of 31 March 2004 on setting standards of quality and safety for the donation, procurement, testing, processing, preservation, storage and distribution of human tissues and cells	L 102 7.4.2004 p.48-58	Consolidated: 7.8.2009	N/A	N/A	N/A	N/A
200	Commission Directive 2006/17/EC of 8 February 2006 implementing Directive 2004/23/EC of the European Parliament and of the Council as regards certain technical requirements for the donation, procurement and testing of human tissues and cells	L 38 9.2.2006 p.60-52	Consolidated: 17.12.2012	N/A	N/A	N/A	N/A
201	Commission Directive 2006/86/EC of 24 October 2006 implementing Directive 2004/23/EC of the European Parliament and of the Council as regards traceability requirements, notification of serious adverse reactions and events and certain technical requirements for the coding, processing, preservation, storage and distribution of human tissues and cells	L 294 25.10.2006 p.32-50	Consolidated: 23.4.2015	N/A	N/A	N/A	N/A
202	Commission Directive 2012/19/EU of 26 November 2012 amending Directive 2006/17/EC as regards certain technical requirements for the testing of human tissues and cells	L 327 27.11.2012 p.24-25	N/A	N/A	N/A	N/A	N/A
203	Commission Directive (EU) 2015/565 of 8 April 2015 amending Directive 2006/86/EC as regards certain technical requirements for the coding of human tissues and cells	L 93 9.4.2015 p.63-65	N/A	N/A	N/A	N/A	N/A
204	Commission Directive (EU) 2015/566 of 8 April 2015 implementing Directive 2004/23/EC as regards the procedures for verifying the equivalent standards of quality and safety of imported tissues and cells	L 93 9.4.2015 p.56-68	N/A	N/A	N/A	N/A	N/A
Reciprocal Cross-Border Healthcare							
205	Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare	L 88 4.4.2011 p.45-65	Consolidated: 1.1.2014	N/A	Latest: 15 July 2020	N/A	N/A
				Total Implementing / Delegated	2	0	0

Policy Area Summary: TRANSPORT

EU acts in scope: 10 directives and regulations.

Total EU tertiary acts since 1 January 2021: 6 implementing and delegated acts.

Change since last EU Law Tracker report: 0 secondary and 0 tertiary acts.

	TRANSPORT					EU (Secondary) Law	EU (Tertiary) Law
	Aviation - Compensation Public Service Obligation						
206	Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community Bus Franchising Rules	L 293 31.10.2008 p.3-20	Consolidated: 18.12.2020	N/A	N/A	N/A	N/A
207	Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 Charging of HGVs	L 315 3.12.2007 p.1-13	Consolidated: 26.12.2017	N/A	N/A	N/A	N/A
208	Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures Electronic Road Toll Systems	L 187 20.7.1999 p.42-50	Consolidated: 26.3.2022	N/A	N/A	N/A	N/A
209	Directive 2004/52/EC of the European Parliament and of the Council of 29 April 2004 on the interoperability of electronic road toll systems in the Community: date of end of validity 19.10.2021 Directive (EU) 2019/520 of the European Parliament and of the Council of 19 March 2019 on the interoperability of electronic road toll systems and facilitating cross-border exchange of information on the failure to pay road fees in the Union Ports Services/Facilities	L 166 30.4.2004 p.124-143 L 91 29.3.2019 p.45-76	Consolidated: 20.4.2009 Consolidated: 24.3.2022	Repealed and Replaced by Directive (EU) 2019/520: Article 33 N/A	N/A Latest: 28 November 2019	N/A N/A	N/A N/A
210	Regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues: date of end of validity 16.6.2019 Intelligent Transport Systems	L 57 3.3.2017 p.1-18 L 332 28.12.2000	Consolidated: 28.5.2020 Consolidated: 9.12.2015	N/A Repealed and Replaced by Directive (EU) 2019/883: Article 22	N/A N/A	N/A N/A	N/A N/A
211	Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC Road Infrastructure Safety Management	L 151 7.6.2019 p.116-142	N/A	N/A	Commission Implementing Regulation (EU) 2022/89, (EU) 2022/92, (EU) 2022/90, (EU) 2022/91	N/A	N/A
212	Directive 2010/40/EU of the European Parliament and of the Council of 7 July 2010 on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport Trans European Transport Network	L 207 6.8.2010 p.1-13	Consolidated: 9.1.2018	N/A	Commission Delegated Regulation (EU) 2022/670	N/A	N/A
213	Directive 2008/96/EC of the European Parliament and of the Council of 19 November 2008 on road infrastructure safety management Maritime - Public Service Contracts/Obligations	L 319 29.11.2008 p.58-67	Consolidated: 16.12.2019	N/A	N/A	N/A	N/A
214	Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU Maritime - Public Service Contracts/Obligations	L 348 20.12.2013 p.1-128	Consolidated: 9.7.2023	N/A	Commission Delegated Regulation (EU) 2023/1176	N/A	N/A
215	Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage)	L 364 12.12.1992 p.7-10	Consolidated: 1.7.2013	N/A	N/A	N/A	N/A
				Total Implementing / Delegated	6	0	0

Policy Area Summary: GOODS REGULATION

EU acts in scope: 2 directives and regulations.

Total EU tertiary acts since 1 January 2021: 2 implementing and delegated acts.

Change since last EU Law Tracker report: 0 secondary and 2 tertiary acts.

	GOODS REGULATION					EU (Secondary) Law	EU (Tertiary) Law
	Market Surveillance						
216	Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 Construction Products	L 169 25.6.2019 p.1-44	N/A	N/A	Commission Implementing Regulation (EU) 2023/2712, 2023/975, 2023/733, 2022/1267, 2021/2248, 2021/1121	N/A	1
217	Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC Text with EEA relevance	L 88 4.4.2011 p.5-43	Consolidated: 16.7.2021	N/A	Commission Implementing Decision (EU) 2023/2461, 2023/1473, 2023/910, 2023/424, 2022/2357, 2022/1517, 2022/381, 2021/1789, 2021/1183	N/A	1
				Total Implementing / Delegated	2	0	2

Appendix Two: European Commission Work Programme 2024 Analysis

Scottish Government Alignment Commitment & European Commission Work Programme 2024							
Significant Proposals and Initiatives to Rationalise Reporting (Annex II)	EC Document Reference	Proposal Published	EU Law in Scope of Alignment Impacted by or Related to New EU Act	Progress	Final EU Act	Scottish Government Position	
Proposals and Initiatives ... adopted by the Commission since March 2023							
1	Proposal for a Regulation of the European Parliament and of the Council on detergents and surfactants, amending Regulation (EU) 2019/1020 and repealing Regulations (EC) No 648/2004	COM(2023) 217 final	April 2023	Regulation (EU) 2019/1020	In progress	N/A	N/A
2	Proposal for a Regulation amending Regulation 2016/2031 on protective measures against pests of plants	COM(2023) 661 final	October 2023	Regulation (EU) 2016/2031	In progress	N/A	Varies - aligning with overall framework but adjusting for phytosanitary conditions and advice in Scotland
Priority Pending Proposals (Annex III)							
A European Green Deal							
See: Annual Report							
3	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on preventing plastic pellet losses to reduce microplastic pollution	COM(2023)645 final	October 2023	Single Use Plastics Directive (EU) 2019/904, Waste Framework Directive (2008/98/EC), Packaging and Packaging Waste Directive (94/62/EC), Marine Strategy Framework Directive (2008/56/EC)	In progress	N/A	N/A
4	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on circularity requirements for vehicle design and on management of end-of-life vehicles, amending Regulations (EU) 2018/858 and 2019/1020 and repealing Directives 2002/53/EC and 2005/64/EC	COM(2023)451 final	July 2023	End of Life Vehicles Directive (2000/53/EC) and Type-Approval Framework Regulation ((EU) 2018/858)	In progress	N/A	N/A
5	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2008/98/EC on waste	COM(2015)0595 final	July 2023	Waste Directive (2008/98/EC)	In progress	N/A	N/A
6	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Soil Monitoring and Resilience (Soil Monitoring Law)	COM(2023)416 final	July 2023	Waste Directive (2008/98/EC), Landfill Directive (1999/31/EC), Industrial Emissions Directive (2010/75/EU), Water Framework Directive (2000/60/EC), Floods Directive (2007/60/EC), Birds Directive (2009/147/EC), Habitats Directive (92/43/EEC)	In progress	N/A	Non-specific Statement: "We also welcome the Commission's focus on healthy soils..." (p.36)
7	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the production and marketing of forest reproductive material, amending Regulations (EU) 2016/2031 and 2017/625 of the European Parliament and of the Council and repealing Council Directive 1999/105/EC (Regulation on forest reproductive material)	COM(2023)415 final	July 2023	Forest Reproductive Material Directive (1999/105/EC), Animal Health Law Regulation ((EU) 2016/2031) and Official Controls Regulation ((EU) 2017/625)	In progress	N/A	N/A
8	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the production and marketing of plant reproductive material in the Union, amending Regulations (EU) 2016/2031, 2017/625 and 2018/848 of the European Parliament and of the Council, and repealing Council Directives 66/401/EEC, 66/402/EEC, 68/139/EEC, 2002/53/EC, 2002/54/EC, 2002/75/EC, 2002/76/EC, 2002/57/EC, 2002/72/EC and 2008/90/EC (Regulation on plant reproductive material)	COM(2023)414 final	July 2023	Animal Health Law Regulation ((EU) 2016/2031), Official Controls Regulation ((EU) 2017/625), Organic Production Regulation ((EU) 2018/848) and Council Directives 66/401/EEC, 66/402/EEC, 68/139/EEC, 2002/53/EC, 2002/54/EC, 2002/75/EC, 2002/76/EC, 2002/57/EC, 2008/72/EC and 2008/90/EC on plant reproductive material	In progress	N/A	N/A
9	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on plants obtained by certain new genomic techniques and their food and feed, and amending Regulation (EU) 2017/625	COM(2023)411 final	July 2023	Official Controls Regulation ((EU) 2017/625), GMOs legislation including Directive 2003/18/EC, Regulation (EC) No 1829/2003, Regulation (EC) No 1830/2003 and Directive 2009/41/EC	In progress	N/A	Non-specific Statement: "We note the European Commission's consideration of new genomic techniques such as gene editing and how these relate to existing GM legislation, and are looking carefully at the implications of the legislative proposals the Commission published in July." (p.36)
10	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury as regards dental amalgam and other mercury-added products subject to manufacturing, import and export restrictions	COM(2023)395 final	July 2023	Regulation (EU) No 549/2012 on export and import of hazardous chemicals	In progress	N/A	N/A
11	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties, including criminal penalties, for pollution offences	COM(2023)273 final	June 2023	Directive (EU) 2019/883 on port reception facilities for delivery of ship waste	In progress	N/A	N/A
12	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Directives 2001/110/EC relating to honey, 2001/112/EC relating to fruit juices and certain similar products intended for human consumption, 2001/113/EC relating to fruit jams, jellies and marmalades, 2001/114/EC relating to certain partly or wholly dehydrated preserved milk for human consumption	COM(2023)201 final	April 2023	Council Directives 2001/110/EC relating to honey, 2001/112/EC relating to fruit juices, 2001/113/EC relating to fruit jams, jellies and marmalades, 2001/114/EC relating to partly or wholly dehydrated preserved milk	In progress	N/A	N/A
13	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2012/19/EU on waste electrical and electronic equipment (WEEE)	COM(2023)63 final	February 2023	Directive (2012/19/EU) on waste electrical and electronic equipment (WEEE)	In progress	N/A	Proposal is under development. Subject to future consideration.
14	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on packaging and packaging waste, amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904, and repealing Directive 94/62/EC	COM(2023)2677 final	November 2022	Directive 94/62/EC on packaging and packaging waste	In progress	N/A	Proposal is under development. Subject to future consideration.
15	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on ambient air quality and cleaner air for Europe (recast)	COM(2020)542 final	October 2022	Directive 2008/50/EC on ambient air quality	In progress	N/A	N/A
16	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning urban wastewater treatment (recast)	COM(2021)541 final	October 2022	Council Directive 91/271/EEC on urban wastewater treatment	In progress	N/A	Proposal is under development. Subject to future consideration.
17	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2000/60/EC establishing a framework for Community action in the field of water policy, Directive 2006/118/EC on the protection of groundwater against pollution and deterioration and Directive 2008/105/EC on environmental quality standards in the field of water policy	COM(2021)540 final	October 2022	Water Framework Directive (2000/60/EC) Groundwater Directive (2006/118/EC) and Environmental Quality Standards Directive (2008/105/EC)	In progress	N/A	Yes - Yes - although the proposal is not finalised, the Scottish Government intends to incorporate updated standards into Scottish legislation, as far as possible.
18	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the sustainable use of plant protection products and amending Regulation (EU) 2021/2115	COM(2021)305 final	June 2022	Regulation (EC) No 1107/2009 on Plant Protection Products	In progress	N/A	Proposal is under development. Subject to future consideration.
19	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on nature restoration	COM(2021)304 final	June 2022	Birds Directive (2009/147/EC), Habitats Directive (92/43/EEC), Water Framework Directive (2000/60/EC), Marine Strategy Framework Directive (2008/56/EC)	In progress	N/A	Proposal is under development. Subject to future consideration.
20	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) and Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste	COM(2021)156 final	April 2022	Industrial Emissions Directive (2010/75/EU) and Landfill Waste Directive (1999/31/EC)	In progress	N/A	Under active consideration
21	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down harmonised conditions for the marketing of construction products, amending Regulation (EU) 2019/1020 and repealing Regulation (EU) 305/2011	COM(2021)144 final	March 2022	Regulation (EU) 2019/1020 on market surveillance and compliance and Regulation (EU) 305/2011 on marketing construction products	In progress	N/A	Proposal is under development. Subject to future consideration.
22	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Union guidelines for the development of the trans-European transport network, amending Regulation (EU) 2021/1153 and Regulation (EU) No 913/2010 and repealing Regulation (EU) 1315/2013	COM(2021)1812 final	December 2021	Trans-European Transport Network Regulation (EU) 1315/2013	In progress	N/A	Proposal is under development. Subject to future consideration.
23	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the energy performance of buildings (recast)	COM(2021)1802 final	December 2021	Directive 2010/31/EU on energy performance of buildings	In progress	N/A	Proposal is under development. Subject to future consideration.
A Europe Fit for the Digital Age							
24	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on combating late payment in commercial transactions	COM(2023)533 final	September 2023	Directive 2011/7/EU on combating late payment in commercial transactions	In progress	N/A	Non-specific Statement: "Regarding late payments proposals, we will consider the recommendations from the Commission following their recent consultation. We are also closely monitoring the current UKG's payment and cash flow review which will involve both public consultation on payment reporting regulations and a statutory review of the effectiveness of the Small Business Commissioner's office." (p.39)
25	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on establishing a framework of measures for strengthening Europe's net-zero technology products manufacturing ecosystem (Net Zero Industry Act)	COM(2023)163 final	N/A		In progress	N/A	Under active consideration
Promoting our European Way of Life							
26	Proposal for a Directive amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims	COM(2022)732 final	December 2022	Human Trafficking Directive 2011/36/EU	In progress	N/A	N/A
27	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on standards of quality and safety for substances of human origin intended for human application and repealing Directives 2002/98/EC and 2004/23/EC	COM(2021)338 final	July 2022	Human Blood Directive 2002/98/EC and Organs and Human Tissues 2004/23/EC	In progress	N/A	Yes
28	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down rules to prevent and combat child sexual abuse	COM(2022)209 final	May 2022	Child Sexual Abuse Directive 2011/93/EU	In progress	N/A	Non-specific statement: "We will continue monitoring any developments of these proposals and consider possible alignment following an analysis of whether Scotland can or already has made such domestic legal changes" (p.42)
A New Push for European Democracy							
29	Proposal for a COUNCIL DIRECTIVE on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in the field of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and deleting Article 13 of Directive 2000/43/EC and Article 12 of Directive 2004/113/EC	COM(2021)689 final	December 2022	Directive 2000/43/EC on Equal Treatment Regardless of Race or Ethnicity and Directive 2004/113/EC on Equal Treatment for Men and Women accessing Goods and Services	In progress	N/A	N/A
30	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and deleting Article 20 of Directive 2006/54/EC and Article 11 of Directive 2010/41/EU	COM(2021)688 final	December 2022	Directive 2006/54/EC on Gender Equality in Employment and Directive 2010/41/EU on Gender Equality in Self-Employment	In progress	N/A	N/A